

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

PRESIDENT PHILIP:

The regular Session of the 91st General Assembly will please come to order. Will the Members please be at their desks? Will our guests in the galleries please rise? Our prayer today will be given by Pastor John Hamilton, Laurel United Methodist Church, Springfield, Illinois. Pastor Hamilton.

PASTOR JOHN HAMILTON:

(Prayer by Pastor John Hamilton)

PRESIDENT PHILIP:

Please remain standing for the Pledge of Allegiance. Senator Radogno.

SENATOR RADOGNO:

(Pledge of Allegiance, led by Senator Radogno)

PRESIDENT PHILIP:

Reading of the Journal. Senator Jones.

SENATOR W. JONES:

Mr. President, I move that reading and approval of the Journal of Monday, January 8th, in the year 2001, be postponed, pending arrival of the printed Journal.

PRESIDENT PHILIP:

Senator Jones moves to postpone the reading and the approval of the Journal, pending the arrival of the printed transcript. There being no objection, so ordered. Resolutions.

SECRETARY HARRY:

Senate Resolution 463 is offered by Senator Link, as is Senate Resolution 464.

Senate Resolution 465, by Senator Shadid and all Members.

Senate Resolutions 466, 467, 468, 469, all offered by Senator Lauzen and all Members.

Senate Resolution 470, by Senator Clayborne and all Members.

Senate Resolution 471, by Senator Noland and all Members.

Senate Resolution 472, by Senator Lauzen and all Members.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Senate Resolution 473, Senator Shaw and all Members.

Senate Resolution 474, by Senator Shaw and all Members.

Senate Resolution 475, by Senator Clayborne and all Members.

And Senate Resolutions 476 and 477 {sic} (477 and 478), both offered by Senator Demuzio.

They're all death resolutions, Mr. President.

PRESIDENT PHILIP:

Consent Calender. Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measures assigned: Be Approved for Consideration - House Bill 3841, Floor Amendment No. 2 to House Bill 3841, and Floor Amendment 3 to House Bill 4659.

PRESIDENT PHILIP:

Resolutions.

SECRETARY HARRY:

Senate Resolution 476, offered by Senator Weaver.

(Secretary reads SR No. 476)

PRESIDENT PHILIP:

Senator Weaver moves to suspend the rules for the purpose of the immediate consideration and adoption of Senate Resolution 476. Those in favor, signify by saying Aye. Those opposed, Nay. The Ayes have it. The rules are suspended. Senator Weaver has moved for the adoption of Senate Resolution 476. All those in favor, signify by saying Aye. Those opposed, Nay. The Ayes have it. The resolution's adopted. Senator Lightford, for what purpose do you rise?

SENATOR LIGHTFORD:

On the point of personal privilege.

PRESIDENT PHILIP:

State your point.

SENATOR LIGHTFORD:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

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

PRESIDENT PHILIP:

Could we have a little peace and quiet? Senator Lightford.

SENATOR LIGHTFORD:

Thank you, Mr. President, Members of the Senate. I'd like to introduce our village manager for the Village of Maywood, and our finance director. My hometown. Please help me welcome them.

PRESIDENT PHILIP:

Would you please rise and be recognized by the Senate? Senator Karpziel, for what purpose do you rise?

SENATOR KARPIEL:

Thank you, Mr. President. To announce a Republican Caucus immediately in Senator Philip's Office.

PRESIDENT PHILIP:

Thank you, Senator Karpziel. The Senate will stand in recess for about a half hour.

(SENATE STANDS IN RECESS/SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR DUDYCZ)

Resolutions.

SECRETARY HARRY:

Senate Resolution 478 {sic} (479), offered by Senator Emil Jones and all Members.

It's a death resolution, Mr. President.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Consent Calendar. For the attention of the Members not on the Floor, the Chair would advise all Senators to come to the Floor. We will be going to the Order of Conference Committee Reports in the middle of page 7 of your regular Calendar, which will be followed by concurrence motions. So will the Members please come

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

to the Senate Floor? Brian Williamson, from WICS-TV, requests permission to record the proceedings of the Senate. Hearing no objection, leave is granted. If you'd turn your attention to the middle of page 7, to the Order of Conference Committee Reports. Senator Cronin, on -- Conference Committee Report No. 1 to Senate Bill 441. Senator Cronin on the Floor? Mr. Secretary, we'll take it out of the record and, with leave, we will return to Conference Committee Reports. Right now, we will go to the top of page 7, the Order of Secretary's Desk, Concurrence, on Senate Bills. Mr. Secretary, read the motion on Senate Bill 368.

SECRETARY HARRY:

I move to concur with the House in the adoption of their Amendment No. 1 to Senate Bill 368.

The motion filed by Senator Burzynski.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Burzynski.

SENATOR BURZYNSKI:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is a clean-up piece of legislation and there is no opposition whatsoever. Be more than happy to answer any questions.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Is there any discussion? If not, Ladies and Gentlemen, this is final action. The question is, shall the Senate concur in House Amendment No. 1 to Senate Bill 368. All those in favor will vote Aye. Opposed will vote Nay. And the voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 58 Ayes, no Nays, none voting Present. And the Senate does concur in House Amendment No. 1 to Senate Bill 368, and the bill, having received the required constitutional majority, is hereby declared passed. Senator Myers, on House -- on Senate Bill 1975. Mr. Secretary, read the motion, please.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

SECRETARY HARRY:

I move to concur with the House in the adoption of their Amendment No. 2 to Senate Bill 1975.

The motion filed by Senator Myers.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Thank you -- thank you, Mr. President, Members of the Senate. If you'll recall, we debated a bill that would give some aid to some landowners in fifteen counties who are taking the brunt of a lawsuit by the Miamian Indian population. These landowners have gone through a lot of difficult times and worry and stress about this lawsuit that has been filed. The bill passed the Senate and went to the House, where there was an amendment filed, which I'd like to describe to you and then I would ask for your support for this bill. The amendment has set an hourly rate for legal fees paid or reimbursed under this Section which cannot exceed the maximum hourly rate customarily paid to the Special Assistant Attorneys General. In addition, the total amount of legal fees paid or reimbursed under this Section shall not exceed one hundred thousand dollars. The payments or reimbursements may be made from moneys appropriated to the Attorney General for fiscal year 2001 for contractual services, notwithstanding any other law to the contrary. And the Attorney General must, by April 15th, submit to the General Assembly a detailed, written report indicating which fees the Attorney General has or intends to pay or reimburse and the basis for making the payment or reimbursement. So it -- this is an aid to those folks in the fifteen counties who've taken the brunt of the lawsuit. It's something that I think the State should do to help out people who legally own property but are faced with a lawsuit that could endanger their ownership of this legally owned property. So I would ask that the Members of this

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

august Body support this legislation.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Is there any discussion? Senator Hendon.

SENATOR HENDON:

Thank you, Mr. President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates she will yield. Senator Hendon.

SENATOR HENDON:

Senator Myers, I just want to -- for clarity, you know, I was against this whole concept, originally, to pay the legal bills of these landowners against the Native American Indians, but are -- you are capping the amount that the people of Illinois will be stuck with. If there -- is that correct?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Senate -- yes, Senator, that is correct.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Hendon.

SENATOR HENDON:

So if the legal bills end up a million dollars, the landowners would pay the nine hundred thousand themselves. So they're -- they're going to be on their own and we'll not come back to give them any other relief. Is that correct?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

I don't know what will be necessary in the future or what form this lawsuit will take. This bill, however, does have a limit of a hundred thousand dollars and a maximum hourly rate that can be paid. Some of this money will go to fees that -- or, to actions that have already been taken. I cannot describe to you what the

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

future will hold as far as this lawsuit, but this bill does have a limit.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Hendon.

SENATOR HENDON:

I will -- this will be my final question, Mr. President. Can we get a commitment from you today that -- that you, personally -- maybe some other Senator might -- but that -- Senator Myers, that you will not come back and ask for more money to pay any legal bills if the cost goes higher? Can we get a personal commitment from you today?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Senator, I will not make that commitment to you. I am committed to the people and the landowners in this 2.6 million acres to -- to ensure that the State of Illinois have -- will be there to support them. I cannot tell you, because I don't know what form this support will have to take in the future, but this particular bill does have a limit to it. I think it's very important that the State of Illinois aid any landowners in a very different kind of lawsuit that we don't face ordinarily. But this bill does not deal with that. That would be something we would deal with in the future perhaps.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Thank you. I rise in support of this. Whether you are for this case or against this case, what, in fact, we are doing here is we are firming up what the State's obligation is. And it seems to me that it's a prudent approach that we limit it to a hundred thousand, and we, in fact, do have some definition in there as to

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

what the attorneys' costs will be. So I would rise in -- in support of this legislation.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Clayborne.

SENATOR CLAYBORNE:

Thank you, Mr. President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates she will yield. Senator Clayborne.

SENATOR CLAYBORNE:

Senator Myers, what is this -- how did you come up with the hundred thousand dollars for attorneys' fees?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

That particular language was decided in a committee in the House, and I cannot speak to the persons who negotiated that hundred thousand dollars.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Clayborne.

SENATOR CLAYBORNE:

So you don't know if that -- that amount is sufficient or not. Because you're talking about protecting the landowners and their property, are we really doing them a service by capping this at a hundred thousand dollars? And -- and I anticipate that this litigation will last years, not only at the court level, but probably Appellate Court and -- and even possibly Supreme Court and maybe even to go further. So are we really doing them a -- a service by capping the fees at a hundred thousand dollars for litigation that may last another five to ten years?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Senator, there has already been expended a number of dollars and the -- the indication was that the expenditures through this period and into January would probably amount to at least fifty thousand dollars. This is to take care of -- of fees and actions that have already been taken. And we believe that it is possible, as you indicate, this lawsuit could go on for a while. I don't have a crystal ball to tell me whether it will or not, but certainly you are absolutely right that it could. This is to take care of what's been expended and the actions that have been taken to date, and it is possible that we will be back for additional moneys. But we need to settle this now and make sure that what's already been expended and the actions that have been taken are covered.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Clayborne.

SENATOR CLAYBORNE:

So, in other words, as I understand it, is that because we have not been a part, now we're going to go back and pay for private landowners' legal fees and expenses that have been incurred. And -- and then, at some point in the future, we're going to come back and redo this again, because, obviously, I guess this sunsets July 1st of 2000. So I -- 2001. I'm sorry. So I anticipate that we'll be back here again appropriating more moneys for these private landowners.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

The suit has not been dismissed. I don't know what this suit will amount to in the future. We are trying to take care of what has happened to date and I can't anticipate, nor can I tell you, what this suit will -- will be involved with. I think it is extremely important for us to support the fifteen landowners and,

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

in fact, other landowners within this 2.6 million acres who are facing notations on their title policy, all kinds of other difficulties.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Clayborne.

SENATOR CLAYBORNE:

I'll close with this. Senator Myers, I guess what you're doing -- and you -- and I truly believe that you believe what you're doing is -- is protecting the landowners, but I -- I think there's a fundamental problem, and I voted against this before. You know, if we're really talking about -- you say you can't anticipate what will happen. But we're talking about taxpayers' dollars, and surely we should be a little more prudent - I believe the word you used and -- or, Senator Demuzio used - in -- in -- in spending taxpayers' dollars. You know, we -- we've had other arguments about different things and whether we should spend money on -- on different projects, but I think what's fundamental here is, and was -- and was talked about before, some of these people had title insurance. Then there is a mechanism by which to provide legal services. I think that what we're getting into, we're -- opening up a Pandora's box, and this does not do anything to eliminate, alleviate or assure the taxpayers how much money we're going to spend in a private lawsuit. And it's unfortunate. This is a mask that is disguising what could be an infinite amount of money. And I -- I -- as the Senator said, because she cannot determine how much money we're going to spend, and this is taxpayers' money, then I think we should be a little sure. You know, we're here today, and I'm getting calls about natural gas bills and the cost and -- and doing something to eliminate a tax. People in my area, unfortunately, see that as a little more -- a little higher priority, to deal with the problems that they're having, than these private landowners, plus the fact that we're

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

giving an unlimited amount of money that we don't know that we -- we will be able to address in the future, or we can assure people, the taxpayers, of how much money we're going to spend on this. I can't support it, because it doesn't give us the assurance that -- that it is intended to give.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Shaw.

SENATOR SHAW:

Yes. Thank you, Mr. President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates she will yield. Senator Shaw.

SENATOR SHAW:

Could you answer, has the...

PRESIDING OFFICER: (SENATOR DUDYCZ)

I beg your pardon, Senator Shaw. Senator Shaw.

SENATOR SHAW:

Has there been a ruling asking the Attorney General to intervene in this case in any way, by anybody?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

There is a motion to intervene with -- within a federal court system in the southern part of this State. There is no ruling on -- on that particular motion yet.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shaw.

SENATOR SHAW:

Well, why are we preempting such a ruling and want to get the cart ahead of the horse here and appropriate some money? Do we know -- have we talked to the judge to know what his or her ruling's going to be while we're doing this?

PRESIDING OFFICER: (SENATOR DUDYCZ)

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Senator Myers.

SENATOR MYERS:

Senator, it isn't preempting a rule. There is no ruling on this yet, and the -- and the landowners do have to pursue defense.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shaw.

SENATOR SHAW:

Well, let's say that I have -- I have some furniture in my house that the -- the company want to repossess, and I don't want 'em to repossess it. It seem to be the case of these landowners. Can I come to the State, come to you, and you would introduce a bill to help me fight the owners of the furniture to keep 'em from repossessing it? Isn't that what we're doing here?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

The State protects State sovereignty, and part of this action is the -- defending of State sovereignty. So, no, the State would not take action with you.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shaw.

SENATOR SHAW:

One of the -- would you explain the -- this property is owned, supposedly, by some private group. What State sovereignty does the State have invested here?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

The area that is indicated, although the suit is filed against fifteen private landowners, is 2.6 million acres, within which there are State-owned properties.

PRESIDING OFFICER: (SENATOR DUDYCZ)

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

The Chair would ask that the Members please keep your -- your conferences down to a minimum so that the Senators can hear each other and that -- so that the Chair can hear the discussion.  
Senator Shaw.

SENATOR SHAW:

I'm trying -- what part of this action is -- does the State have interest in? And why are we including the total landowners -- private landowners? I can understand that if there's a State park involved in this, why we would be defending that with State dollars, but now we have went beyond that and we are defending some private enterprise. I'm -- I want to get back and -- and -- to this furniture in my house, and I want you to keep the -- Marshall Field's from coming and getting my furniture. And can you tell me what part of this six thousand {sic} acres that the State have a interest in, and why are we -- okay. Tell me that.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

If the tribe should win this lawsuit, the State loses sovereignty over 2.6 million acres, one-eighth of the State of Illinois. Taxes, civil jurisdiction, criminal jurisdiction, all are lost by the State of Illinois.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shaw.

SENATOR SHAW:

Well, can you tell us -- can you tell us whose land this is anyway? Who does this land actually belong to? If -- if -- tell us -- tell us that. And how does this relate to the treaty -- the Indian treaty?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Right now the landowners hold federal patents to the land. If the tribe is successful in this suit, they will have ownership of 2.6 million acres - one-eighth of the land in the State of Illinois.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shaw.

SENATOR SHAW:

Was this land theirs to begin with?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

That is a question to be determined by the courts.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shaw.

SENATOR SHAW:

The -- I understand what you are saying, but I still don't see why we would take up the issue. It seems as though to me that the State would pursue the State portion of this property, not some private landowner. And what you just said a minute ago -- a few minutes ago is that this hundred-thousand-dollar cap, that you would lead us to believe that this is the total amount of money that's going to be spent in -- on this process. I know you didn't say that in fact, but what you did say is that the current bills that are outstanding, the way I understood it, would eat up this hundred thousand dollars, and we'll be right back here next year, in next year's budget, appropriating some additional funds to fight some private landowners when those landowners -- when they -- when they -- taking -- the mortgage when they bought the land, they -- there should have been a -- a mortgage insurance set forth in that process. And why wouldn't these people, why wouldn't those landowners be holding the mortgage company, the insurance, responsible? Why aren't they fighting in this battle? You

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

haven't answered that, but -- and -- and I don't think that the statute ever run on that if it's fraudulent in the first place, but I don't see anything fraudulent about this. This seem to me is that we -- some Indians down here own some land that some people never had rightful title to, and we're just -- there's a group of fifteen or twenty legislator -- I mean, landowners that's going to come here and have us, as a legislative Body, to take their land the way we did the whole country. And that's wrong.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, the State does have a great stake in this. It's about two million-some acres, which is about the -- the -- eighth the size of the State of Illinois, that are involved. There are -- there is a lawsuit. I think that the wise thing to do is try to protect the State now. And when you say -- it's just not those owners of the land; it's a matter of -- of what the law should be and the law is going to be determined by the courts. In the meantime, if we don't take this -- this position, how are we going to defend the State of Illinois? It's the State of Illinois involved more than we realize, because all those acres, one-eighth of the State of Illinois, will be involved. So I certainly urge a favorable passage of this bill.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Obama.

SENATOR OBAMA:

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

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates she will yield. Senator Obama.

SENATOR OBAMA:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

I just have a couple questions, 'cause I'm -- I'm a little bit confused. The first question, why -- let's assume that, in fact, some of this is State land and so the State does have an interest. Why wouldn't our Attorney General provide the legal representation on behalf of the State that's necessary? I -- I understand that he's intervened. There's some question whether intervention is going to be granted, but in addition to intervening, for example, the -- if this was State land, I'm assuming that the Attorney General not only could intervene, but could, in fact, file his own lawsuit to protect the interests of the State in this situation. So, could you explain sort of the situation there for me?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Senator, at this point, the only people being sued are the fifteen landowners. They have not sued the State of Illinois. So at this point, it's inappropriate, I believe, for the Attorney General, who -- to -- to defend, because there isn't a suit against the State lands within this 2.6 million acres.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

SENATOR OBAMA:

Okay. So, if that's the case, if the State hasn't been sued, if the State's not a party, then, in fact, State land is not at issue in the current lawsuit. Is that correct?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

If -- if the tribe gets precedence, my understanding is that then they can go after State lands.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

SENATOR OBAMA:

But at the present time, no State-owned land is being contested. Only privately-owned land is being contested. Is that correct?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

That is correct. However, we are trying to intervene in the suit in federal court.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

SENATOR OBAMA:

Couple of other questions. Number one, if, in fact, we're talking about one-eighth of the total land of Illinois being at stake, is it my understanding that, in fact, fifteen private individuals or companies own this one-eighth of the land that -- that you've discussed, or is it just fifteen individuals who constitute a small portion of this one-eighth and at some point this one-eighth of the land might be at stake? Is that what you're saying?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Senator, that is correct. These fifteen landowners, one in each of the fifteen counties that are involved in this, have been chosen. I cannot tell you how or why they were. However, in the suit, it talks about the Wabash River Watershed. The Wabash River Watershed involves all of the 2.6 million acres. But these one in each county were chosen as a part of the lawsuit and I can't tell you why.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

SENATOR OBAMA:

It's safe to assume, though, essentially what's happened is that these have been targeted as sort of test cases, that at some point might then be pursued in -- in the remainder of the lands that might be available. Is that correct?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Senator, that is correct.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

SENATOR OBAMA:

Okay. Just a couple of more questions. The -- is this land that was conferred to these landholders by the State? I mean, was this a State land grant of some sort, so that the State somehow is responsible for having told these folks that, in fact, it was their land, but it turned out not to be, or -- or -- or at least is now being contested?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

These lands are a part of a federal land grant. These folks have been paying taxes. In many cases, these are not wealthy people for the most part. These are people, like you and I, who own a piece of land, who are now faced with having to fight a lawsuit for, in some cases, just their own personal, modest home.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

SENATOR OBAMA:

But -- so -- so this -- this was land received from the federal government as part of a land grant. Is that correct?

PRESIDING OFFICER: (SENATOR DUDYCZ)

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Senator Myers.

SENATOR MYERS:

That is correct.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

SENATOR OBAMA:

What happens -- let's assume that the -- the Native American tribe won these lawsuits. Does this land then -- you know, you were mentioning that State sovereignty is at risk. Does this land then become owned by the tribe and is then treated like a Native American reservation whereby there is -- the State of Illinois has no jurisdiction over this property whatsoever?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Senator, that is correct. We lose State sovereignty over one -- 2.6 million acres of our land.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

SENATOR OBAMA:

...understanding is, we wouldn't -- that wouldn't happen right away - Right? - but the -- 'cause these are test cases that are taking place. But what you're saying is, though, that whatever land was determined to be owned by these Native American tribes would be treated in the same fashion that reservations are currently treated, insofar as -- within certain constraints, the Native American tribes would have sovereignty over this land, and they couldn't be taxed, casinos could be built on this land, so forth and so on. Is that correct?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

That is correct. And there is nothing to prevent this lawsuit from being expanded beyond fifteen landowners.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Obama.

SENATOR OBAMA:

Just a closing statement. I can certainly see that the State would have an interest, at least, in participating in this process. I'm not entirely comfortable with a situation where we're reimbursing private parties. I -- I don't exactly understand why it is that the State is not able to intervene. Obviously, a judicial ruling has not come down yet. I'm wondering whether it wouldn't be more appropriate for us to wait to see if the State -- the Attorney General is able to intervene in this case, and if he is, then he should be carrying the ball, not only on behalf of the State, but presumably can present a lot of the same arguments as effectively or more effectively than private attorneys might. So -- so I guess I'm wondering why it is that we're providing for this reimbursement without waiting to see whether the State -- whether the Attorney General is, in fact, allowed to intervene in this process.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Is there any further discussion? Senator Noland.

SENATOR NOLAND:

Thank you, Mr. President. I mean, just -- just envision this: Imagine being an eighty-year-old lady who's lived in this home all your life, and it was your -- the home of your grandmother or your great-grandfather, and finding out that a treaty signed thirteen years before Illinois was a State is now -- a suit has come that you're going to lose your home land. You're going to lose your -- your home, your farm. And these people -- ten of these people do not have title insurance. Ten of the fifteen named defendants have no title insurance and they're footing this bill all on

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

their own. Now, to date, we've spent about thirty-five thousand dollars, in terms of the landowners. We're only asking for one hundred thousand to help these poor people. And so you say, "Okay, big deal, it doesn't affect me." Well, what tribe is next? What tribe will surface and say, okay, now it's the northeast corner of the State or the west side of the State? It's this Wabash River Watershed now. What about Mississippi and the Illinois River and the Fox Valley? So, Ladies and Gentlemen, we have the -- the responsibility to step up, rise to the occasion, help these fifteen people so it doesn't become five thousand landowners or -- million people. So, please, vote for Senate Bill 1975.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Demuzio, for a second time.

SENATOR DEMUZIO:

Well, the more I -- the more I read about this and the more I hear about this, you -- you are capping the fees at a hundred thousand, but yet, you are not saying that you won't come back here later on for -- for more. This hundred thousand dollars, is there -- is there an appropriation that's rolling around for this someplace? Is this in a supplemental or where is this -- this money? Is it still out in the sky or what?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

This -- Senator, this comes out of the AG's contractual services line.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Demuzio.

SENATOR DEMUZIO:

Do we need a supplemental, then, to provide for the Attorney General the revenue or the money in order to pay the first hundred

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

thousand dollars to the lawyers?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

This bill does allow the Attorney General to pay this out of their 2001 line.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Molaro.

SENATOR MOLARO:

Thank you -- thank you, Mr. President. Just quickly. I was certainly worried about it being capped. You have done that. So you -- I -- I appreciate that. Whether you're going to come back or not, I -- I don't know that. And I, frankly, don't care, because if you do, you have to come back. And Senator Noland's speech, I think, made a lot of sense to me. If we do have these people out there that are defending sovereign land and if they owned it so many years ago, it doesn't make any sense. They couldn't have bought title insurance. That's the problem. And I'm convinced that these are people who don't have the means, and I think it's pretty rough on their families to be able to say, well, here's twenty or thirty thousand dollars. Hundred thousand dollars for something that is very important, because I, too, am worried about the fact that these tribes may actually be successful and I don't want them to be for the sake of a hundred thousand dollars. So I -- I urge an Aye vote.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Emil Jones.

SENATOR E. JONES:

Yeah. Thank you, Mr. President. Sponsor yield?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates she will yield. Senator Jones.

SENATOR E. JONES:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Senator Myers, to your -- best of your knowledge, like in the State of Wisconsin where you have the -- not reservations, but Indian land, was it similar to this here in Illinois? Did they proceed the same way, wherein they won the right and -- to have this land as theirs?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

I understand that most of the land in the State of Wisconsin was in a reservation when Wisconsin became a state.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Jones.

SENATOR E. JONES:

Most of it, but did they go through the courts to get this land -- some of the land that they currently have? And did this happen in any other state where they were awarded the land because of -- of a treaty of some sort?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Myers.

SENATOR MYERS:

Senator, I can't answer that question. I know that most of the land was within a reservation at the point of statehood for Wisconsin. I can't answer your additional question.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Jones.

SENATOR E. JONES:

Well, let me read this in a memo from staff, is that in 1985, the U.S. Supreme Court found in favor of the Oneida Tribe, ruling that in violation of -- of the 1795 treaty with the State of New York, the tribe had been wrongfully removed from two hundred and fifty (thousand) acres in central New York. The tribe now operate a casino there. So what I'm saying to you is this: There is --

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

there is precedent for the Indians to go to court and win their case. My problem with this legislation is that I understand the issue as it relate to the current tenants; however, I don't think we should be in the posture of taking something from someone who, by law, is rightfully theirs. And -- and why I'm saying to you this is I sympathize with those who are the recipients who currently live on -- on the land right now, but I don't think it is right for us, as a Body, to go against a group who believe that the land is theirs - and probably, legally, it is theirs - and for us to use our money to fight them for getting something that actually belongs to them. If it's a eighth of the State of Illinois, then those individuals who incorporated the State, if they were wrong -- if they were wrong then, they are wrong now and -- and the amendment does not make a bad bill any better.

PRESIDING OFFICER: (SENATOR DUDYCZ)

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

SENATOR MYERS:

Thank you, Mr. President. There are fifteen owners -- legal owners of pieces of property who are taking the brunt of a lawsuit that could potentially affect 2.6 million acres, one-eighth of the State of Illinois. In my opinion, these people, who are not wealthy landowners, deserve the support of the State of Illinois. They were responsible. Five of them had title insurance. The other ten did not. Some of these people have owned this land for a very long time. Their families have owned this land for a very long time. I believe that we deserve, with the issue of State sovereignty being in the background, but that these people deserve the support -- all of our support. If, in fact, any one of the Members of this Assembly were within this -- this lawsuit area and faced losing their personal property that they've been paying taxes on, that they've owned for a long time and never thought that they would have to defend their legal right to have this

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

property, that we would feel the same way that they do. They don't have unlimited funds. They deserve our help, and I think it behooves us to pass this bill and to support these fifteen people. And I would urge you to vote to -- to cast a positive vote for this piece of legislation.

PRESIDING OFFICER: (SENATOR DUDYCZ)

The question is, shall the Senate concur in House Amendment No. 2 to Senate Bill 1975. All those in favor will vote Aye. Opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 39 Ayes, 16 Nays, 2 voting Present. And the Senate does concur in House Amendment No. 2 to Senate Bill 1975, and the bill, having received the required constitutional majority, is hereby declared passed. Messages from the House.

SECRETARY HARRY:

Message from the House by Mr. Rossi, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to wit:

Senate Bill 1855, along with House Amendment No. 1.

Passed the House, as amended, January 9th, 2001.

PRESIDING OFFICER: (SENATOR DUDYCZ)

If you will turn your attention to the middle of page 7 of your regular Calendar, to the Order of Conference Committee Reports. We have Senate Bill 441. Mr. Secretary, do you have a file -- a conference committee report on Senate Bill 441?

SECRETARY HARRY:

Yes, Mr. President. First Conference Committee Report on Senate Bill 441.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

SENATOR CRONIN:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This First Conference Committee Report does not contain the language that we are seeking to have before the Senate, and I would respectfully ask that the Members vote this down.

PRESIDING OFFICER: (SENATOR DUDYCZ)

The question is, shall the Senate adopt the Conference Committee Report No. 1 to Senate Bill 441. All those in favor will vote Aye. Opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are -- there are 11 -- 10 Ayes, 39 -- there are -- 8 Ayes, 43 {sic} (44) Noes, 3 {sic} (2) voting Present. And the Conference Committee Report is not adopted, and the Secretary shall so inform the House. Senator Halvorson, what purpose do you rise? If you turn your attention to the top of page 2 of your regular Calendar to the Order of House Bills 3rd Reading, we have House Bill 4659. Senator Philip, do you wish this bill returned to 2nd Reading for the purposes of an amendment? Senator Philip seeks leave of the Body to return House Bill 4659 to the Order of 2nd Reading for -- for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 4659. Mr. Secretary, are there any Floor amendments approved for consideration? Senator Philip.

SENATOR PHILIP:

Thank -- thank you, Mr. President, Ladies and Gentlemen of the Senate. I move to table Amendment No. 2 to House Bill 4659.

PRESIDING OFFICER: (SENATOR DUDYCZ)

You've heard the motion. All those in favor, say Aye. Opposed, Nay. The Ayes have it, and the amendment is tabled. Are there any Floor amendments approved for consideration, Mr. Secretary?

SECRETARY HARRY:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Amendment No. 3, offered by Senator Philip.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Philip.

SENATOR PHILIP:

Move the adoption of Amendment No. 3 to Senate {sic} Bill 4659.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Is there any discussion? For the purposes of the Membership, the board is inaccurately showing amendments -- numerous amendments. We are dealing with Floor Amendment No. 3 to House Bill 4659. Is there any discussion? If not, all those in favor, say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Any further Floor amendments approved for consideration?

SECRETARY HARRY:

No further amendments reported.

PRESIDING OFFICER: (SENATOR DUDYCZ)

3rd Reading. On the Order of 3rd Reading is House Bill 4659. Senator Philip. Mr. Secretary, read the bill.

SECRETARY HARRY:

House Bill 4659.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Philip.

SENATOR PHILIP:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Amendment No. 3 becomes the bill, House Bill 4659. And basically it does three things. First of all, you might call it "zero tolerance" or "one strike and you're out". It also does two other things. It requires a verified positive result, and what that means is if you've been drug tested positively, they send it to another laboratory to be reevaluated once again. Now, if -- if

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

you know -- before you take the first test, if you think you might have a drug problem, you have the opportunity, as an officer, to require a rehab. You can go through rehab. So it doesn't change that at all and all it says is that we want to verify that that person test positive for drugs. And then it also removes a section allowing for body cavity searches. That was one of the objectives; that is taken out. Other than that, you know what it is. Be happy to answer any questions.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Is there any discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well, thank you, Mr. President. Let's -- let's begin with this -- this amendment now has an immediate effective date. I would ask the Chair how many votes that this measure now takes in order for it to be effective immediately. How many votes does it take to pass?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Thirty votes. Senator Demuzio.

SENATOR DEMUZIO:

You -- you want to expand on that as to how, because I have the -- I have the statute in front of me and it says here that a bill passed after May 31st shall not become effective prior to June 1st of the next calendar year unless the General Assembly by a vote of three-fifths of the Members elected to each house provides for an earlier effective date. Therefore, it seems to me that your ruling is -- is one that won't stand. You want to give me the rationale as to why you're ruling thirty?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Demuzio.

SENATOR DEMUZIO:

Beg your pardon. I -- I meant to say that this is the -- a provision that I just read that's contained in the Illinois

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Constitution, not in statute.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Demuzio, today is January 2001; therefore, it requires thirty votes. The Chair has made the ruling. If the Senator wishes to contest -- appeal the ruling of the Chair, it's your prerogative. Senator Demuzio.

SENATOR DEMUZIO:

...me -- let me ponder that if I -- moment -- for a moment. And let me go to a next -- my next issue. The memorandum of agreement with respect to this drug testing that had been agreed to by the Governor's Office, as well as the -- the -- the folks involved in this agreement, those folks in Corrections, this is a departure from that -- from that agreement. If you look at page 2 on -- on the -- on the amendment, it says no less than twenty percent of all the employees and administrative officers of the Department shall be randomly tested for the presence of drugs once each per year. That's contrary to the agreement that was signed by the administration and also by the -- by the -- by AFSCME that says that individuals shall be selected at random, of up to twenty percent of the eligible test population shall be tested annually. There's a significant difference in the -- in the language of what we are attempting to do here today and it's a significant difference in the agreement that had been struck between AFSCME and -- and the Governor's Office. Let me point out, if I might, that in the first time in my experiences here, this is the first time that we have not ratified and provided for the -- the essentials of the agreement that had been struck between the Governor and the State employees in -- in the history of the period of time that I have been here, and that's over -- almost twenty-seven years. It would seem to me that we are -- we are now involved in the collective bargaining procedure ourselves. If you believe in collective bargaining that's already been bargained -

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

we're already doing this on a voluntary basis, it's in their agreement, it's in their contract - and for us to engage ourselves, at this particular late date of the time, to change this agreement, let alone just talking about drug testing, changing the agreement that had been struck between the Governor's Office and -- and AFSCME and the Corrections employees, it seems to me that this is bargaining in bad faith, and we ought not to do this. And for that reason, I -- I rise in opposition to this -- this legislation. And...

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Demuzio.

SENATOR DEMUZIO:

And if I might, if you'll give me -- grant me leave to come back with respect to me rereading the Constitution with respect to your ruling, I'd like to make another comment, if I might, sir.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Thank you, Senator Demuzio. There any -- any further discussion? If not, Senator Philip, to close.

SENATOR PHILIP:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. House Bill 4659 is simple. It does three things. It puts into law what is already being done in the Illinois Department of Corrections. They're doing it now. They've done it for a long time. It also puts into law what has been agreed to with AFSCME and the Governor's Office. And thirdly, if you entrust work in the Illinois prison systems to a verified positive drug test or refuse to take a drug test, you're gone - just like we do for the State Police, just like we do for the City of Chicago Police and a lot of other municipal governments. It's the right thing to do, quite frankly. You know it and I know it. Let's stand up to the plate and hit a home run.

PRESIDING OFFICER: (SENATOR DUDYCZ)

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

The question is, shall House Bill 4659 pass. All those in favor will vote Aye. Opposed will vote Nay. And the voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 35 Ayes, 10 Nays, 13 voting Present. And House Bill 4659, having received the required constitutional majority, is hereby declared passed. Supplemental Calendar No. 1 has been distributed on the Members' desks. We will be going to that order of business immediately. On Supplemental Calendar No. 1, Senator Cronin, do you wish this -- House Bill 3841 returned to 2nd Reading for the purposes of an amendment? Senator Cronin seeks leave of the Body to return House Bill 3841 to the Order of 2nd Reading for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 3841. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY HARRY:

Amendment No. 2, offered by Senator Cronin.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This bill -- originally I was working with Senator Cullerton on this and I think we're still working on this together. I hope. Senate Floor Amendment No. 2 becomes the bill. It amends the County Jail Act. Requires the sheriff to adopt and implement a written policy that provides for the release of a person who was in the custody of the sheriff for any criminal or supposed criminal matter to a sworn law enforcement personnel or to the State's Attorney for the purpose of furthering investigations into criminal matters. Upon the release of a person to law enforcement personnel or the State's Attorney under the written policy of the sheriff, the sheriff shall not be liable for any

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

injury to either the person released or to any third party that occurs during the time period the person is in custody of other law enforcement personnel or the State's Attorney, unless the sheriff, a deputy sheriff, correctional guard, lockup keeper, or a county employee is guilty of willful and wanton conduct that proximately caused the injury. This bill -- this amendment is the result of some very serious and long, arduous negotiation between people from the Cook County State's Attorney's Office and the Cook County Sheriff's Office, as well as the Senate Republican Staff. I want to commend all those that worked so hard to bring this together. We now have agreement. The County Sheriff, Mike Sheahan, supports this bill. Originally, you -- some of you may be familiar with the issue, but originally there was some concern about when a policeman or an investigator comes to the -- the jail seeking to question a -- a suspect, interrogate someone. There was concern that they -- they couldn't conduct this investigation properly if they could not get -- gain the release of the prisoner back to the local municipality for purposes of a lineup, for purposes of victim identification. There was all sorts of compelling reasons why the law enforcement community needed to have access to the prisoner. The Sheriff, on the other hand, maintained that -- that if the -- if -- if the prisoner was released, that he would be exposed to all sorts of liability, and so we addressed the concerns of the Sheriff. We provided a very limited immunity and we also addressed the statewide application. This bill, in the final analysis, whether you're concerned about the State's Attorney's concerns or the Sheriff's concerns, those folks are happy, or they're -- they're in agreement, and in the final analysis, this is in the best interests of law enforcement and for those who are trying to investigate and solve serious crimes. I ask for your favorable consideration. Be happy to answer questions.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

PRESIDING OFFICER: (SENATOR DUDYCZ)

Is there any discussion? Senator Cullerton.

SENATOR CULLERTON:

Thank you, Mr. President, Members of the Senate. First of all, Senator Cronin, I know this has been a very difficult bill to work on. It's been a difficult bill to work on because of the fact that there has been a conflict between some State's attorneys and some sheriffs. And this -- I would say also that this amendment is certainly an improvement over the bill, because when we considered the bill in committee, it was obvious that the immunity that was first drafted was -- was so broad that it was -- it was unacceptable. So I appreciate the fact that you've attempted to rectify it. However, I really don't understand why we didn't have this amendment go to a Judiciary Committee. It didn't -- it wouldn't take that long. We've got enough time today. This is coming directly to the Floor. The Trial Lawyers are still opposed to the amendment. They -- it would be appropriate if we had a committee hearing so that they could come and testify, and perhaps we could go through the nuances of this immunity to see if there's not a way in which we could improve on it even -- even better, even -- come up with an even better amendment. So -- that's not your fault. I guess that's just the -- the fault of the Rules Committee for sending it directly to the Floor. I just don't understand, procedurally, why we don't do that. There is -- it's not like there's a -- you know, it's a political issue. It's not a political issue. There's a number of very good members of the Judiciary Committee which would evaluate this. There were a number of questions raised by -- by the Chairman of the committee last time. We don't know, not having a committee hearing, whether or not everybody's satisfied with -- with the particular aspects of this amendment. So I -- I really think, for that reason, I'm going to -- in spite of the

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

fact that I know I've been lobbied by the Sheriff, I know there's an agreement with the Sheriff, I really think -- I did point out to him that I have a concern with this immunity issue, and I think we should vote Present on this or No, and then maybe try it again and next time go to a committee. Thank you.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Further discussion? Senator Hawkinson.

SENATOR HAWKINSON:

Thank you, Mr. President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates he will yield. Senator Hawkinson.

SENATOR HAWKINSON:

Senator, when we had this in committee, I did raise a number of questions and one was the statewide application. In its present form, this bill applies statewide, does it not?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

Yes.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Hawkinson.

SENATOR HAWKINSON:

And additionally, there was a great deal of discussion as to whether we needed legislation at all, because, at least in the other hundred and one counties, this problem had not arisen and sheriffs and State's attorneys and law enforcement agencies have had the practice for years of cooperating and releasing from their jails to police agencies for criminal investigations. The question that follows that then: At least as to the release provisions and the authority of the sheriff to release someone in custody to other law enforcement or to State's attorneys' offices for criminal investigations, this bill is intended, is it not, to

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

be declarative of existing law?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

Absolutely.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? Senator Shadid.

SENATOR SHADID:

Yes. Thank you. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates he will yield. Senator Shadid.

SENATOR SHADID:

Senator, I think Hawkinson's questions were some of the questions I was going to ask. As to -- my question is, what was the purpose of this? Was there some incident that has driven this legislation?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

I don't know exactly, Senator Shadid, but I do know that the Cook County State's Attorney -- there was a lawyer in that office that issued an opinion or wrote an opinion, a letter, that declared that the practice of jail letters - simply releasing a prisoner to a law enforcement agency on the basis of a request in a letter - was not adequate and was not compliant with law. They -- there was a provision that was cited that -- that one could argue does preclude the release of prisoners on the basis of that letter alone. We had sort of a difficult situation because, as you know, that practice was not problematic in all the other hundred and one counties in the State, and we didn't want to, by implication, say that maybe there was if we responded to only the Cook County concern. So the intent of this legislation is to no

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

way, shape or form, in any way, intrude in or suggest that the practice of a jail letter is inappropriate. If -- if that has been the practice and if the sheriff who's in custody of the prisoner agrees to it, then they may continue to do so.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shadid.

SENATOR SHADID:

My -- my analysis does not show the Sheriffs' Association or the State's Attorneys Association in support. Are they in support of this?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

I'm advised that they are in support. But I -- you know.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Shadid.

SENATOR SHADID:

Well, I -- I asked that for a couple reasons. No one has contacted me one way or the other. And of course, that's immaterial, but in all the years I've been in law enforcement, in Peoria County, we've never had any kind of a problem by releasing prisoners to agencies that have made the arrest. So that's why I was wondering, why are we doing it now? So, thank you anyway.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Any further discussion? If not, all those in favor, say Aye. Opposed, Nay. The Ayes have it. And the amendment is adopted. Any further Floor amendments approved for consideration?

ACTING SECRETARY HAWKER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR DUDYCZ)

3rd Reading. ...the Order of 3rd Reading is House Bill 3841. Madam Secretary, read the bill.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

ACTING SECRETARY HAWKER:

House Bill 3841.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

Thank you very much, Mr. President, Ladies and Gentlemen of the Senate. We talked a little bit about the details of the bill just moments ago, and I won't repeat those. I just appreciate the support of the Chairman of the Judiciary Committee and -- who has had influence and involvement and direction in this legislation. You know, you can pick and choose. And I'm disappointed that the Trial Lawyers are not in favor of it, but they have their reasons. And I'm sure that they'll have their opportunity to voice those reasons when the bill goes over to the House. But, you know, you can say what you want about this bill. The parties that brought this issue to us and the parties that originally had a problem with it, those issues and those problems have been addressed. I don't know if there's some other agenda going on here. I'm not that smart to figure that out and it's not of a concern to me anyway. All I know is that there are policemen that are genuinely in need of this, good people who are -- sincerely want to help solve crimes. They need this legislation, and I ask for your favorable consideration.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Is there any discussion? Senator Cullerton.

SENATOR CULLERTON:

Would the sponsor yield?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Sponsor indicates he will yield. Senator Cullerton.

SENATOR CULLERTON:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Senator Cronin, once again, I want to say I understand you've kind of been given this bill and you're probably wondering why you're even sponsoring it, but -- and you've done a lot of work on it, but to point out why this is the type of amendment that should have gone to committee, I've got a question for you. I know you have an able counsel next to you. Maybe you could defer her -- maybe she can help answer this. But what is the current law with regard to a prisoner that's being transported by a sheriff and that prisoner is injured? Let's say they get in a -- you know, the -- the truck that's bringing that prisoner to the police station is in a car crash. What's the current liability for the sheriff to that individual?

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

...think the liability to the sheriff would -- there would be a connection if the prisoner is in the custody of the sheriff. Once the prisoner is removed from the custody of the sheriff to a duly sworn law enforcement officer, an agent of another local government, I would argue, and our staff counsel would argue, that their liability exposure ceases.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cullerton.

SENATOR CULLERTON:

Well, let's put it this way: What's the change in the law by us passing this bill with regard to the issue of the liability of the sheriff when -- or any other law enforcement personnel or the State's attorney as a result of this -- this particular statute? And -- and, again, this is one of the questions that maybe somebody from the Trial Lawyers could have posed and we could have had answers if we had actually heard this in a committee. But maybe right now, since we're on the Floor and it's final passage,

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

you can answer that for me.

PRESIDING OFFICER: (SENATOR DUDYCZ)

Senator Cronin.

SENATOR CRONIN:

Our intent, and my intent as the sponsor, when this issue of liability came to light, was really pretty simple, and -- and it -- it -- it states that the -- the liability transfers to the individual law enforcement officer, as an agent of the local government, once that transfer is made, in accordance with the policy that's adopted with the sheriff. So once the -- the prisoner -- the custody of that prisoner is transferred over to the custody of the law enforcement officer seeking the release, and -- and the release is done in comport and compliance with the -- the -- the sheriff's policy, then the sheriff's not on the hook anymore. And, you know, the -- the interesting case that the Cook County Sheriff points out is one where there was a prisoner that -- that got a hold of a -- a gun and -- and shot the law enforcement officer and then shot... There was never a civil liability suit in that case, ironically enough. That isn't to say that there couldn't be, but -- but the point is that this law makes it very clear that once that prisoner is released from the custody of the sheriff, the sheriff is no longer liable.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? If not, Senator Cronin, to close.

SENATOR CRONIN:

I ask for your favorable consideration.

PRESIDING OFFICER: (SENATOR WATSON)

The question is, shall House Bill 3841 pass. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 47 voting Yes, 8 voting No, 3 voting Present. House Bill 3841, having received

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

the required constitutional majority, is declared passed. Message from the House.

ACTING SECRETARY HAWKER:

A Message from the House by Mr. Rossi, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has refused to recede from their Amendments numbered 1 and 5 to a bill of the following title, to wit:

Senate Bill 1707.

Action taken by the House, January 9, year 2001.

PRESIDING OFFICER: (SENATOR WATSON)

Without objection, the Senate accedes from -- to the request of the House for conference committees on those bills just read by Madam Secretary. Leave is granted. We will now proceed to Executive Session for the purpose of advice and consent. Senator Petka, for a motion.

SENATOR PETKA:

Thank you, Mr. President. I move that the Senate resolve itself into Executive Session for the purpose of acting on the Governor's appointments set forth in his Message of November 9th and also his Message of November 29th, as well as the Secretary of State's Message of September 13, 2000. Mr. President, with respect to the Message of November 9th, I will read the salaried appointments of which the Senate Committee on Executive Appointments...

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka. Excuse me. We must approve your motion. We've all heard the motion. All in favor, say Aye. Opposed, Nay. The motion carries and we are in Executive Secretary {sic}. Madam Secretary, Committee Reports.

ACTING SECRETARY HAWKER:

Senator Petka, Chairperson of the Committee on Executive

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Appointments, to which was referred the Governor's Message of November 9, 2000, reported the same back with the recommendation that the Senate advise and consent to the following appointments.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

Thank you, Mr. President. I incorporate by reference my previous statements and also include the following: Mr. President, with respect to the Message of November 9th, 2000, I will read the salaried appointments, which the Senate Committee on Executive Appointments recommends that the Senate do advise and consent, as follows:

To be members of the Illinois International Port District Board for terms ending June 1st, 2005: Anthony DeAngelis of Palos Park.

To be a member of the -- and Chairman of the Illinois Labor Relations Board for a term ending January 29, 2001: Manny Hoffman of Hazel Crest.

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Is there any discussion? Seeing none, the question is, does the Senate advise and consent to the nominations just made. Those in favor, vote Aye. Opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 voting Yes, no voting No, no voting Present. A majority of Senators elected concurring by record vote, the Senate does advise and consent to the nominations just made. Madam Secretary.

ACTING SECRETARY HAWKER:

Senator Petka, Chairperson of the Committee on Executive Appointments, to which was referred the Secretary of State's Message of November 29, 2000, reports the same back with the

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

recommendations that the Senate advise and consent to the following appointments.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

Thank you, Mr. President. With respect to the November 29th, 2000 Message, I'll read the nonsalaried appointments of which the Senate Committee on Executive Appointments recommends the Senate do advise and consent:

To be members of the Affordable Housing Advisory Commission for terms ending October 1st, 2000: Rance Carpenter of Springfield, Henry Mendoza of Chicago, Sheila Romano of Naperville.

To be members of the Affordable Housing Advisory Commission for terms ending October 1st, 2001: Daniel Goodwin of Oak Brook, Willie B. Nelson of East St. Louis.

Board of Directors for Prairie State for a term ending July 1st, 2002: Lori T. Healey of Chicago.

To be a member of the Prairie State 2000 Authority Board of Directors for a term ending July 1st, 2003: Bernard Armbruster of Springfield.

To be a member of the Board of Higher Education for a term ending January 31st, 2003: Steven Lesnik of Winnetka.

To be a member of the Eastern Illinois University Board of Trustees for a term ending January 17, 2005: Nathaniel James Anderson of Belleville.

To be members of the Governors State University Board of Trustees for terms ending January 15, 2001: Kathleen Orr of Flossmoor, Lorine Samuels of New Lenox.

To be a member of the Historic Preservation Agency Board of Trustees for a term ending January 15, 2001: Carol Stein of Chicago.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

To be a member of -- and Chairman of the Historic Preservation Agency (Board of Trustees) for a term ending January 21st, 2002: Julianna Cellini of Springfield.

To be members of the Illinois Historic Preservation Agency Board of Trustees for terms ending January 21st, 2002: Pamela Daniels of Elmhurst, Edward Genson of Deerfield.

To be a member of the Illinois State University Board of Trustees for a term ending January 17, 2005: Stanley Ommen of Bloomington.

To be a member of the Northern Illinois University Board of Trustees for a term ending January 15, 2007: Robert T. Boey of DeKalb.

To be a member of the Southern Illinois University Board of Trustees for a term ending January 20, 2003: Era E. Callahan of Springfield.

To be a member of the Capital Development Board for a term ending January 19, 2004: Michael Skoubis of Des Plaines.

To be members of the Educational Funding Advisory Board for terms ending January 15, 2001: Dean Clark of Glen Ellyn, Anne Davis of Harvey.

To be a member and Chairman of the Educational Funding Advisory Board for a term ending January 21st, 2002: Robert Leininger of Springfield.

To be members of the Educational Funding Advisory Board for a term ending January 19, 2004: Bert Docter of South Holland, Marleis Trover of Vienna.

To be a member of the Guardianship and Advocacy Commission for a term ending June 30, 2002: Sue Suter of Springfield.

To be members of the Guardian {sic} and Advocacy Commission for terms ending June 30th, 2003: Betty Bollmeier of Mascoutah, Nancy {sic} (Mary) Flowers of Chicago, Michael Howie of Rochester, Joanne Perkins of Aurora, Susan Tatnall of Batavia.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

To be a member of the Havana Port -- Regional Port District Board for a term ending June -- July 1st, 2001: Murray Johnson of Havana.

To be a member of the Havana Regional Port District (Board) for a term ending July 1st, 2002: Merle Tarvin of Havana.

To be members of the Illinois Building Commission for terms ending May 1st, 2003: Bruce Bonczyk of Springfield, Kenneth Crocco of Harvard, Robert Cusick of Springfield, David Danley of Barrington, Berardo DeSimone of Elmhurst.

To be members of the Illinois Committee for Agricultural Education for a term ending March 13, 2001, and for terms ending March 13th, 2002: Thomas Reedy of Lovington, Marilyn Engelbrecht of Chillicothe, Leonard Harzman of Macomb, Gail Elizabeth Petersdorff of Long Grove, Nelson Thorp of Wapella, Steven Woodrum of Jacksonville.

To be members of the Illinois Committee for Agricultural Education for terms ending March 13th, 2003: David Catron of Joliet, Kevin Daugherty of LeRoy, Russell Alan Leman of Roanoke.

To be members of the Illinois Development Finance Authority for terms ending January 19, 2004: Warren "Bo" Daniels of Chicago, Ronald Santo of Burr Ridge.

To be members of the Illinois Health Care Cost Containment Council for terms ending September 5th, 2002: Joy {sic} (Jay) Kiokemeister of Park Ridge, James J. Kowalczyk of River Forest, Edward Leary of Downers Grove, Steven B. Scheer of River Forest, Irvin F. Smith of Springfield, Lawrence L. Swearingen of Quincy.

To be a member of the Illinois Health Facilities Authority for a term ending June 30th, 2006: Thomas C. Shields of Riverside.

To be members of the Illinois Health Facilities Planning Board for a term ending July {sic} (June) 30th, 2003: Stuart Levine of Highland Park, Lois {sic} (Louis) Libert of Naperville, Bill Marovitz of Chicago.

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

To be a member of the Illinois Human Resource Investment Council/Workforce Investment Board for a term ending July 1st, 2001: Julie Kruse of Skokie.

To be members of the Illinois Racing Board for a term ending July 1st, 2006, and also Chairman: Ralph Gonzalez of Jacksonville.

To be members of the Illinois Racing Board for terms ending July 1st, 2006: William Parrillo of Oak Brook, John Simon of Chicago.

To be a member of the Illinois State Board of Investment for a term ending July -- or, January 20th, 2003: Peter Fasseas of Chicago.

To be a member of the State Board of Investment for a term ending January 19, 2004: John Marco of Evanston.

To be a member of the Joliet Regional Port District Board for a term ending June 1st, 2003: Robert Schwartz of Shorewood.

To be a member of the Joliet Regional Port District Board for a term ending June 1st, 2005: David J. Silverman of Channahon.

To be members of the Low-Level Radioactive Waste Task Group for unspecified terms: Debra Robinson of Dolton, Jene Robinson of Decatur.

To be a member of the Mid-America Intermodal Authority Port District Board for a term ending June 1st, 2005: George Clark of Sterling.

To be members of the Ohio Valley River -- Ohio River Valley Water Sanitation Commission for terms ending January 3rd, 2006: Constance Humphrey of Springfield, Philip Morgan of Danville.

To be Public Administrator and Public Guardian of DeKalb County for a term ending January {sic} (December) 3rd, 2001: Colleen Cebula of DeKalb.

To be Public Administrator/Public Guardian of Marion County for a term ending December 3rd, 2001: Michael Jones of Centralia.

To be members of the (Southwestern) Illinois Development

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Authority Board for a term ending January 21st, 2002: John Fruit of Edwardsville.

Members of the Southwestern Illinois Development Authority for terms ending January 20th, 2003: Mark James Deschaine of Belleville, Theodore Prehn of Bethalto.

To be a member of the State Board of Education for a term ending January 10, 2001: Marjorie B. Branch of Chicago.

To be members of the State Rehabilitation Council for terms ending July 1st, 2001: Mark -- Matt Abrahamson of Decatur, Robert Nunn of Urbana.

To be a member of the State Rehabilitation Council for a term ending July 1st, 2002: James Jenkins of Bartonville.

To be members of the State Rehabilitation Council for terms ending July 1st, 2003: Mary Clark of Oak Park, Brian Johnson of Chicago, Marbella Marsh of Decatur, Jeanne Naglewski of Naperville.

To be members of the State Soil and Water Conservation Advisory Board for terms ending January 19th, 2003: Terry Davis of Roseville, Dale -- Dale E. Jahraus of St. Peter, Wayne Johnson of (St.) Francisville.

To be members of the Waukegan Port District Board for a term ending May 31st, 2003: Dale Johnson of Winthrop Harbor.

To be a member of the Waukegan Port District Board for a term ending May 31st, 2005: Andrew S. Schapals of Waukegan.

To be a member of the Will-Kankakee Regional Development Authority for a term ending January 20, 2003: Barbara J. Peterson of Beecher.

To be a member of the Workers' Compensation Advisory Board for a term ending January 19, 2002: Margaret Blackshere of Niles.

Mr. President, having read the nonsalaried appointments from the Governor's Message of November 29th, I now seek leave to consider the appointments of November 29th on a roll call. Will

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

you put that question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Is there any discussion? If not, the question is, does the Senate advise and consent to the nominations just made. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there's 57 voting Yes, no voting No, no voting Present. A majority of Senators elected concurring by record vote, the Senate does advise and consent on the nominations just made. Madam Secretary.

ACTING SECRETARY HAWKER:

Senator Petka, Chairperson of the Committee on Executive Appointments, to which was referred the Secretary of State's Message of September 13, 2000, reported the same back with the recommendation that the Senate advise and consent to the following appointments - salaried.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

Thank you, Mr. President. With respect to the Secretary of State Message of September 13, 2000, I will read the salaried appointment of which the State Committee on Executive Appointments recommends that the Senate do advise and consent:

To be a member -- or, the Commissioner of the Merit Commission for the Office of Secretary of State for a term ending July 1st, 2005: Robert J. {sic} (G.) Pautler.

Mr. President, having read the salaried appointment from the Secretary of State's Message of September 30th {sic}, I now seek leave to consider the appointment of September 13, 2000, on a roll call. Will you please put that question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Is there any discussion? Is there any discussion? If not, the question is, does the Senate advise and consent to the nominations just made. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there's 58 voting Yes, no voting No, no voting Present. A majority of Senators elected concurring by record vote, the Senate does advise and consent to the nominations just made. Senator Petka.

SENATOR PETKA:

Thank you, Mr. President. I move that the Senate now arise from Executive Session.

PRESIDING OFFICER: (SENATOR WATSON)

You've heard the motion. Those in favor, say Aye. Opposed, Nay. Motion carries. Senator Karpziel, for what purpose do you rise?

SENATOR KARPIEL:

Thank you, Mr. President. There will be a Republican Caucus in Senator Philip's Office immediately.

PRESIDING OFFICER: (SENATOR WATSON)

That motion is in order. We will recess to the call of the Chair for a Republican Caucus.

(SENATE STANDS IN RECESS/SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR WATSON)

We'd like to ask the Members to return to the Floor. The Senate will come to order. Mr. Secretary, Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measures have been assigned: Approved for

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Consideration - Conference Committee Report 1 to Senate Bill 1707,  
the Motion to Concur with House Amendment 1 to Senate Bill 1855,  
and House Bill 3615.

PRESIDING OFFICER: (SENATOR WATSON)

We are in the process of distributing Supplemental Calendar  
No. 2. Those will be on your desks shortly. Senator Clayborne,  
for what purpose do you rise, sir?

SENATOR CLAYBORNE:

Rise -- Mr. President, I rise for a point of personal  
privilege.

PRESIDING OFFICER: (SENATOR WATSON)

State your point.

SENATOR CLAYBORNE:

Sitting in my seat is my cousin, Marsha Johnson, who is also  
the godmother of my youngest son and who's also a constituent in  
Frank Watson's district.

PRESIDING OFFICER: (SENATOR WATSON)

Well, very good. Very special visitor we have today.

SENATOR CLAYBORNE:

We -- I'd like for the Senate to recognize.

PRESIDING OFFICER: (SENATOR WATSON)

Very good. Well, welcome to the Senate. Glad to have you  
here. WAND-TV asks leave to videotape the proceedings. Leave is  
granted. We'd like for all the Members to be in their seats.  
Everyone be called back to the Floor. We will begin our order of  
business shortly. And we will also ask for order. Will the  
Members please be in their seats? We're on the Order of  
Supplemental Calendar No. 2. House Bills 3rd Reading is House  
Bill 3615. And that bill is out of the record. Secretary's Desk,  
Concurrence, we have Senate Bill 1855. Senator Philip. Mr.  
Secretary.

SENATOR PHILIP:

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Thank you.

PRESIDING OFFICER: (SENATOR WATSON)

Read the -- excuse me, Senator Philip. Read the motion, please, Mr. Secretary.

SECRETARY HARRY:

I move to concur with the House in the adoption of their Amendment No. 1 to Senate Bill 1855.

The motion by Senator Philip.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Philip.

SENATOR PHILIP:

Thank you, Mr. President, Ladies and Gentlemen of -- of the Senate. What this does is increase the in-district allowance, as of July 1 of the year 2001, in the Senate to six-thousand-dollar increase; the House, four thousand increase. One year after that, July 1 of 2002, a -- a COLA kicks in. It would be a cost of living not to exceed five percent. Be happy to ask {sic} any questions.

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Is there any discussion? If not, this is final action and the question is, shall the Senate concur in House Amendment No. 1 to Senate Bill 1855. Those in favor, vote Aye. Opposed, vote No. Voting is open. Have all voted who wish? Take the record. On that question, there's 39 voting Yes, 17 voting No, 1 voting Present. The Senate does concur in House Amendment No. 1 to Senate Bill 1855. And the bill, having received the required constitutional majority, is declared passed. Mr. Secretary, do you have on file a conference committee report on Senate Bill 1707?

SECRETARY HARRY:

Yes, Mr. President. It's the First Conference Committee

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Report on Senate Bill 1707.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate Bill 1707 is the redo of a bill that we've voted on several times before dealing with enterprise zones, and what it does is clarifies that if you construct a building in an enterprise zone, in order to get the sales tax credit associated with that, which was designed to spur construction in enterprise zones, that you have to purchase the materials from an Illinois retailer. Under current statute, it appears that the -- the retailer has to be located -- colocated with the construction in the same enterprise zones. In the smaller downstate enterprise zones, there are not cement sellers, there are not brick merchants, there are not the suppliers of building supplies, and this has really led to a -- kind of a paper transaction creation of dealerships. So this really clarifies that the goal is to incentivize construction in enterprise zones, but to get the incentive, you must purchase from an Illinois source. The second provision of the bill this Chamber has not heard before, but it's a fairly technical cleanup. The Illinois Department of Revenue has the authority, under statute, to share information on titled property with home rule governments, with counties, with subdivisions of the State; they do not have explicit authority to share information on titled property with transit districts. In the Metro East Transit District, because of the way they apply their three-quarter of a percent transportation sales tax, they need information on the value of titled property. Because it's not explicitly permitted, the Department of Revenue has said they don't feel comfortable sharing it. This technically permits the Department of Revenue to enter into an information-sharing agreement with the Metro East

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

Transit Authority. I would be very happy to explain the complexity of the three-quarter-percent sales tax and why they need that information if people in the Chamber would like to know; otherwise, I'd be happy to answer other questions or urge a favorable roll call.

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Is there any discussion? Senator Welch.

SENATOR WELCH:

I just had a question of the sponsor.

PRESIDING OFFICER: (SENATOR WATSON)

Sponsor indicates he'll yield, Senator Welch.

SENATOR WELCH:

This other provision that hasn't been around before, is that going to result in an increase in taxes in the Metropolitan area?

PRESIDING OFFICER: (SENATOR WATSON)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

No, what it should do is represent a decrease in the taxes assessed to motorcycles and titled trailers - trailers that are titled. Currently, the way they -- the -- the last -- last legislative fix, which I think was sponsored by the current Presiding Officer, or person in the Chair, failed to take into consideration that some titled property actually costs less than the minimum trigger. So this should actually result in an effective decrease of small amount of taxes for some purchasers of motorcycles and trailers.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Welch.

SENATOR WELCH:

So, you're saying that the Chair screwed up the bill before. Is that what you...

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

112th Legislative Day

January 9, 2001

PRESIDING OFFICER: (SENATOR WATSON)

Any further discussion? If not, the question is, shall the Senate adopt the Conference Committee Report on Senate Bill 1707. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 54 voting Yes, 1 voting No, no voting Present. The Senate does adopt the Conference Committee Report on Senate Bill 1707, and the bill, having received the required constitutional majority, is declared passed. We will now proceed to the Order of Resolutions Consent Calendar. With leave of the Body, all those read in today will be added to the Consent Calendar. Mr. Secretary, have there been any objections filed to any of the resolutions on the Consent Calendar?

SECRETARY HARRY:

No objections have been filed, Mr. President.

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? If not, the question is, shall the resolutions on the Consent Calendar be adopted. All those in favor, say Aye. Opposed, Nay. Motion carries, and the resolutions are adopted. Is there any further business to be brought before the Senate? If not, Senator Walsh moves that the Senate of the 91st General Assembly stand adjourned sine die. Congratulations. Have a good evening, and we'll see you tomorrow.

DAILY TRANSCRIPTION OF DEBATE INDEX

JANUARY 09, 2001

HB-3841 RECALLED	PAGE	31
HB-3841 THIRD READING	PAGE	36
HB-4659 RECALLED	PAGE	26
HB-4659 THIRD READING	PAGE	27
SB-0368 CONCURRENCE	PAGE	4
SB-0441 CONFERENCE	PAGE	25
SB-1707 CONFERENCE	PAGE	50
SB-1855 CONCURRENCE	PAGE	49
SB-1975 CONCURRENCE	PAGE	4
SR-0463 RESOLUTION OFFERED	PAGE	1
SR-0464 RESOLUTION OFFERED	PAGE	1
SR-0465 RESOLUTION OFFERED	PAGE	1
SR-0466 RESOLUTION OFFERED	PAGE	1
SR-0467 RESOLUTION OFFERED	PAGE	1
SR-0468 RESOLUTION OFFERED	PAGE	1
SR-0469 RESOLUTION OFFERED	PAGE	1
SR-0470 RESOLUTION OFFERED	PAGE	1
SR-0471 RESOLUTION OFFERED	PAGE	1
SR-0472 RESOLUTION OFFERED	PAGE	1
SR-0473 RESOLUTION OFFERED	PAGE	2
SR-0474 RESOLUTION OFFERED	PAGE	2
SR-0475 RESOLUTION OFFERED	PAGE	2
SR-0476 ADOPTED	PAGE	2
SR-0476 RESOLUTION OFFERED	PAGE	2
SR-0477 RESOLUTION OFFERED	PAGE	2
SR-0478 RESOLUTION OFFERED	PAGE	2
SR-0479 RESOLUTION OFFERED	PAGE	3

SUBJECT MATTER

SENATE TO ORDER-PRESIDENT PHILIP	PAGE	1
PRAYER-PASTOR JOHN HAMILTON	PAGE	1
PLEDGE OF ALLEGIANCE	PAGE	1
JOURNAL-POSTPONED	PAGE	1
COMMITTEE REPORTS	PAGE	2
SENATE STANDS IN RECESS/RECONVENES	PAGE	3
MESSAGE FROM THE HOUSE	PAGE	25
MESSAGE FROM THE HOUSE	PAGE	40
EXECUTIVE SESSION-APPOINTMENTS	PAGE	40
COMMITTEE REPORTS-PGS 40, 41, 47	PAGE	40
ARISE FROM EXECUTIVE SESSION	PAGE	48
SENATE STANDS IN RECESS/RECONVENES	PAGE	48
COMMITTEE REPORTS	PAGE	48
RESOLUTIONS CONSENT CALENDAR	PAGE	53
ADJOURNMENT	PAGE	53