

PRESIDENT: On page 599. I think that's sufficient, just proceed. It's found in the Journal on page 626 through 630.

SENATOR MURPHY: Now, the main thrust of this is to place the correctional matter, particularly as relates to pyramid sales as Senator Anderson mentioned into our existing statutes, to amend the acts that we presently have, to clarify them, to strengthen them and to give the additional coverage required under this referral sales program. Now, under Senator Waldron's bill, he does not repeal the referral sales act in personal property so we have a conflict, which way do you go? With this or with the other? This would clear that. This, as I say, includes in Section 4 a much more palatable definition of unconscionability. It gives the Attorney General additional powers in Section 5. In Section 6, it provides that subpoenas, rules and hearings may be provided for. It does not, however, put the burden of proving that an act did not occur on the man charged. This, unfortunately, is a section under the amendment as offered by Senator Waldron. He also suspends rules of evidence as they are presently used. Now, I don't know, how do you go to court under a limited rule of evidence. So, why did it not apply, I do not know. This can be very easily inserted in amending the uniform deception practices act and I think you will find it completely adequate and not nearly as difficult to interpret nor as overbearing as this bill is. For instance, Senator Waldron's bill provides that if there has been an unconscionable act as defined under about fourteen paragraphs, that the Attorney General in his investigative process may require that the individual charge for whether rightly or wrongly before the determination has been made will at his expense produce the goods, produce the papers, produce himself and he is as yet guilty of nothing but he does this at his cost and there is no remedy, there is no counter-activity for the man who has been charged even though he might be falsely charged. Now, I would close with the reminder of one reference to the Attorney General letter from Iowa. This is an election year and I assume the Attorney General is one of those being re-elected. This is his department. And, I would hardly expect a department going before budget committees and standing for re-election and stand up and say this department is a miserable failure. However, I do read in the fact that if there were over 5,000.....

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Start Belt #8

complaints as he sets forth and only twenty of them require court action that we are killing flies with a sledge hammer. Now, I further would state of the 4,000 cases closed that I think it's interesting that over 700 of them, there was no reply from the complainant that in 200 of them there was no basis for the complaint. In over 450 of them, it was a request for information only and in 308 of them, the potential violator was out of business which was undoubtedly the cause for the action, an attempt to collect from a man who had gone out of business. Now, I say that my amendment will give the additional protections against consumer, unfair, consumer acts that are required. It will not ever kill.

PRESIDENT: Senator Waldron.

SENATOR WALDRON: Mr. President, members of the Legislature. I want to rise in opposition to Senator Murphy's amendment and I want to call a spade a spade in this area because here is what we have. Senator Murphy is offering this amendment for the Omaha Retail Merchants Association, it's the same amendment that was offered at two different hearings that the Committee had on LB327 by the Omaha Retail Merchants Association. It completely destroys the intent of LB327. It completely eliminates any consumer protection in the State of Nebraska. It reverts, it would leave us in the situation we are today. Senator Murphy is worried about the felony