

March 11, 1976

if I may speak to the suggestion by Senator DeCamp and I will accept that suggestion for subsection (4) as my amendment to the Committee amendment. Well, I don't believe I do, Mr. Clerk, but I will speak to it in any way you wish. I would move the adoption of the amendment that I have offered to you and I would like to speak, if I could, to the portion that I have described and I will read it. "Page 6, line 8, strike 'those' and insert 'restricted to the actual economic' and on line 13 of the white copy after 'next-of-kin' insert 'shall be limited to actual economic loss and' and then after the period on line 14, add the following: 'No recovery shall be allowed for damages for which reimbursement has been or shall be provided from any nonrefundable collateral source as described in this section.' And for the record, I would like to point out that there have been several amendments prepared that describe collateral source. We will get to those, then, at a later time. The purpose of this amendment is to decide whether or not the Legislature has the responsibility to make a decision as to whether damages should be limited. The reason that I choose to assume that damages should be limited are these; first of all, that the broad general policy of this Legislature, I believe, shall be that the general public is entitled to adequate health care. We recognize that to provide health care for the general public the individual may be limited to recovery in certain instances. The section that I am describing speaks to that, the limitation of recovery. The section which Senator DeCamp has spoken to describes economic loss. The other portion of my amendment provides that "the fact that a spouse has or has not remarried shall be competent evidence in any action where such spouse claims damages as a result of death of his or her spouse." The reason for this amendment is, and it can work either way, if someone in court is asking compensation for the loss of a husband or wife, it provides that the evidence that the husband or wife has or has not remarried may be introduced as a factor in determining the loss of companionship and I move the adoption of the entire amendment, if I could, including subsection (4) as described by Senator DeCamp.

PRESIDENT: Have we got our procedural matters straightened out? Did you withdraw your original amendment?

SENATOR SCHMIT: I withdraw my original amendment subsection (4).

PRESIDENT: All right. The Clerk advises me that you have not withdrawn all of it.

SENATOR SCHMIT: Then, Mr. President, I would then move to withdraw subsection (4) of this original amendment and to...

PRESIDENT: You are withdrawing all of your original amendment, then?