

April 29, 1981

LB 134

SENATOR DeCAMP: The reason Ernie does that is because he knows I will tell him the truth, I always do. Go ahead, Ernie.

SENATOR CHAMBERS: Senator DeCamp, when we talk about a lawyer-client relationship or doctor-patient relationship, and it is one of confidentiality, do you think it would be possible for a Legislature to, by law, say that those relationships are no longer confidential and anything disclosed in that setting must be disclosed because the Legislature says so, or would a court give an interpretation and protect that relationship despite what the Legislature says? In other words, here is the question....

SENATOR DeCAMP: I know what the question is. I will answer it.

SENATOR CHAMBERS: Okay.

SENATOR DeCAMP: You are asking about an attorney-client privilege and who the real privilege is. It's the privilege of the client, not the attorney theoretically, and therefore the court would protect that person because they would say, well, heck, he is not involved, he is not running for office, he is not doing this or that, and that is his protection rather than the other individual. That's what you are fishing for, isn't it?

SENATOR CHAMBERS: So if we would enact an amendment such as that offered by Senator Schmit, who would make the final determination as to whether an attorney-client relationship is involved?

SENATOR DeCAMP: Well I am sure if the matter were litigated by the client, there would be a serious question as to whether the information could be disclosed just as in the present law the law commands me to disclose supposedly what my relatives have or don't have, owe or don't owe, things like that. I think you are in the same field as the existing accountability law on the problems of constitutionality. However, you and I both know, as do the other half dozen attorneys in the room, and, of course, I don't practice law that much but you pick up a few things along the way, attorneys are about the only one in here that have the blanket of the retainer. If somebody wanted to literally buy somebody, what better way than the retainer? Something given for absolutely nothing except maybe a vote if we are going to talk about such things, and yet he is about the only one in the