Legislative History for Connecticut Act

SB 492	PA 531		1959
Judiciary	71 116-186,	47 325-71	118
House	20 4286-4305,	60 4863-4922	80
Senate	1985-1993		9
			207

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY AND
GOVERNMENTAL
FUNCTIONS

PART 1
1-443

CONNECTICUT
GENERAL
ASSEMBLY

1959

JUDICIARY AND GOVERNMENTAL FUNCTIONS

MONDAY FEBRUARY 9, 1959 - 10:30AM

Senator John M. Scanlon
Representative Samuel S. Googel
Presiding

Members present: Senators: Armentano, Relihan, Pickett, Finney, Cady
Representatives: Shea, Barry, Carrozzella, Conway, Hammer, Katz, Lyddy, Mills, Murray, Purtill, Satter, Wagner, Schlossbach, Eddy, Marsters, Lupton, Dudley, Shulansky, Finch, Gersten

Chr. Scanlon: First we will hear from any Legislators who are proponents of any of these bills.

Senator Arthur H. Healey, 10th District: Mr. Chairman, members of the Committee. I would like to state by way of preface that I realize that there are many distinguished members of the Bar, many civic groups, former Chief Justices of the Supreme Court and other people who are here this morning to speak with you. I hope if I may to keep my remarks as brief as possible, indicate our position on these particular bills. Gentlemen, the Administration has:

S.B. No. 491 (Sen. Healey) AN ACT CONCERNING REORGANIZATION OF THE MINOR COURT SYSTEM

S.B. No. 492 (Sen. Healey) AN ACT CONCERNING A FAMILY COURT DIVISION OF THE SUPERIOR COURT.

It is our position that reorganization of the Minor Court system in this State should have a top priority on the General Assembly agenda this coming Session. As it is well known, it is, and has been our position that we are making an all out effort to replace the present Minor Court System with full time courts presided over by full time judges with tenure. It is as a result of that position that you find before you the two bills to which I referred. The Administration bills before you this morning, S.B. 491 and 492 indicate in our opinion a suggested approach to the problem. I think it's purpose is, as I indicated to eliminate the Minor Courts, that is everything below the presently constituted Common Pleas Court and replace them with full time judges with tenure. Beyond that the details, the actual mechanics of the operation is something that this committee can certainly work out after hearing the evidence being presented this morning and after deliberating in their Executive Sessions. Very briefly, I will try to outline S. B. 491. I have a short statement which I will file with the committe, but this will take me approximately a minute and a half to read.

S.B. No. 491 (Sen. Healey) AN ACT CONCERNING REORGANIZATION OF THE MINOR COURT SYSTEM.

Sen. Healey continues: This bill advocates the replacement of the present Minor Court System of Municipal and Trial Justice Courts with a new State maintained court presided over by full-time judges with tenure. S.B. 491 provides and Administrative framework for the Supreme Court of Errors, the Superior Court and a newly constituted Court of Common Pleas. These courts will function as a general Court for Administrative purposes. The Chief Justice of the Supreme Court of Errors will be the Administrative head of the General Court. The Supreme Court of Errors and Superior Court will continue to function in their present form. The Court of Common Pleas under S.B. 491 is divided into two divisions. Division A. continues to operate as the present Court of Common Pleas. Division B. is composed of 40 judges appointed equally from both political parties and to serve for a term of four years. Under the bill, they are to have all the pension and retirement rights of Superior Court Judges. This Court, Division B., that is, is to have jurisdiction of all civil matters under $2,500, and all crimes for the punishment is less than $500 fine or 20 years in jail. This bill, insofar as Division B. is concerned, provides for juries in civil cases insofar as a claim exceeds $250. Criminal cases are to be tried without juries, but defendants are entitled to a de novo trial before a jury in Division A. Appeals and issues of law are taken to a three judge panel of Division B. Division B. will have officers throughout the State. Under our bill, judges in Division B. will be under the Circuit and will hold hearings in any town where Minor Courts presently operate. For the matter of convenience and assessability, we submit by way of introducing these bills, our suggestion for which these bills provide for. Offices will be maintained by the State, hearing rooms by the towns in which the court is held. Court personnel will be selected by the judges, in the same manner as personnel of the Superior Court. Gentlemen, that is a very brief outline of S.B. 491, which is the main Administration bill putting into law we hope after your favorable action which I exhort, our much reiterated position that there be prompt Minor Court Reform in the State.

S.B. No. 492 (Sen. Healey) AN ACT CONCERNING A FAMILY COURT DIVISION OF THE SUPERIOR COURT.

Sen. Healey continues: in effect establishes a family division within the Superior Court. As indicated in the bill, this Court is presided over by 6 judges, who will be judges of the Superior Court. The court will hear cases concerned with family matter, including marital matters, adoption and juvenile matters. The Family Court Division replaces the Juvenile Court. It will

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Sen. Healey continues: hear cases in the State now served by the Juvenile Court. It will use the same personnel now serving in Superior Court. It will also obtain additionally specially trained assistants. Here, by way of a footnote I might add, Division B. as indicated in S.B. 491 and the Family Court as indicated in S.B. 492 are to begin operation under the bill are to begin operation on January 1, 1961. Gentlemen, by way of conclusion in order to permit the testimony whihc I am sure will not only eriadite, and highly informational, of other people before this committee, may I say this: Once again, these bills are designed to reorganize the Minor Court systems and replace the Minor Court system as I indicated before, with full time judges with tenure. These bills, may I indicate again, contain a suggested approach to the problem, beyond the broad basis of the fact that we are for Court reform with full-time judges, may I again say, that the actual mechanics and frame-work of the bill, the technicalities involved for this legislation is for the Judiciary Committee to work out, after hearing the evidence presented this morning, and present it to the Legislature. Our basic objectives are Court Reform, and Gentlemen, I hope that this bill will receive top priority in the matters of the Judiciary Committee. I hope that they will appear before the Legislature early in the Session so they may be fully debated and I urge your good thought and earnest deliberation on all these bills.

Chr. Scanlon: Are there any other Legislators who wish to speak for these bills?

Senator Wallace Barnes, 5th District: Ladies and Gentlemen: I appear before you today to support strongly

S.B. No. 793 (Sen. Barnes) AN ACT CONCERNING THE INTEGRATION OF THE COURTS OF THE STATE.

Sen. Barnes: otherwise known as the Bar Association Bill. There will be many people here today to speak on the principles of Court Reorganization and the arguments for as well as against, particularly particular features of it. I would like to take a few minutes of the Committee's time to attempt to compare in broad outline the principle measures which are before the Committee today. In order to do that there has been filed with the Committee a prepared general comparison of the Bar Bill with the present system and with the two administration bills, which Senator Healey has referred to and also with the so-called Interim Committee bill No. 3873. All of these measures leave the Supreme Court of Errors as presently constituted. But turning to page 2. of this schedule which covers the Superior Court, you'll notice that the judges in all instances are to be full-time and legally trained. By all instances, I mean in all of these measures. The Bar Bill provides

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Sen. Barnes continues: for a complement of thirty judges before the Superior Court which can be increased to forty upon certification by the Chief Justice to the Governor if that increase is necessary. The plus 5 refers to the members of the Supreme Court of Errors who are also technically members of the Superior Court. The present system has 22 judges plus the five who are members of the Supremem Court. And the Admnistration Billalso calls for 22 + 5. The Interim Committee Bill does not affect the Superior Court at all. The jurisdictional area of the Superior Court under the Bar Bill would be all civil matters over$2,100, and all criminal matters over $500, and/or one year in jail. In adition all appeals from Administrative Board would be for the Superior Court. That's a change from the present system which provides for some appeals to be taken to the Court of Common Pleas. And, there is a removal from Superior Court under the Bar Bill of Divorce Jurisdiction. The present system jurisdiction, I won't read, it's complex. There' an attempt in this schedule to summarize it. As you know it varies widely from court to court. Generally speaking the Superior Court has over-riding jurisdiction in virtually all matters. On the other hand, the Common Pleas Court can and the Minor Courts can, and occasionally do, take jurisdiction in matters where the fine is no more that $1,000 and the penalty no more than one year. The Administration Bill makes no change in the jurisdiction of the Superior Court except to create a new family court divisionm which is referred to later. Turning to page 2 the new Court of Common Pleas as established under the Bar Bill is compared on this schedule with the present system and the other two major proposals. The Bar Bill provides for a complement of 40 judges, full time, legally trained, with tenure, increaseable to 50, upon certification to the Governor. This is intended to replace the Minor Courts, the Trial Justices, particularly the 66 town and city courts, the Danbury Traffic Court, and also to absorb some of the functions of the present Court of Common Pleas, which has a complement of 12 judges. The Administration bill as Senator Healey has outlined approaches this problem in a different way. It sets up a Division A and a Division B of the Common Pleas Court. Division A is essentially the present Common Pleas Court, consisting of 12 judges. Division B which calls for a complement of 40-50 judges, exactly the same number as the Bar Bill would take over the matters now handled by then Minor Courts. The Interim Committe approach to this problem is to retain the present Court of Common Pleas and create a Municipal Court Division of 25-35 judges, full-time, legally trained, and they would take over only the functions of the present Municipal Courts. The interim committee bill would not extend to the Trial Justice Court. On the other hand, in the interim committee bill, there's a free right of transfer on the motion of either party the State or the Defendant to the Municipal Division of the Court of Common Pleas, and also the trial justices themselves have the right to transf

Sen. Barnes continues: a case to the Municipal division as proposed by the Interim Committee. In all instances, whatever the court may be that is to take over the jurisidiction of the minor courts, the judges that are on circuit, they would travel from town to town, they could be assigned for sitting at night, if that were the agreement worked out between the Judicial Division and the Town involved. Just a word on facilities; in all cases the General offices for the new Court, the Court of Common Pleas, or the division under the Administration Bill would be provided by the State and the actual rooms for the sitting of the Court would be provided by the towns. There's one significant difference between the Bar Bill, the Administration Bill and the Interim Committee Bill in this respect, and that is that under the Bar Bill and under the Administration Bill, towns provides these facilities presumably without reimbursement by the State. Under the Interim Committee Bill, the towns have the responsibility of providing the Court room but there is a provision which says that the State will reimburse the twons for providing those facilities. Finally, on Appeal. On the Bar Bill these appeals are only in matters of law. One of the features of our present system which many criticize most heatedly is the fact that in many instances, cases are tried completely again on appeal. In other words, a matter is heard before the Minor Courts, a judgment is rendered, an appeal is taken and that same case is heard de novo upon appeal. It is felt that this is a considerable waste of time and a waste of expense to the State. The Bar Bill substantially does away with trial de novo. The Administration Bill as I read Sec. 58 of it does not eliminate trial de novo. As I read that provision, in criminal cases that are brought before Division B of the proposed Court of Common Pleas, an appeal is taken to Division A of that court which is exactly the same situation that we have now when cases are taken from Municipal Court on appeal to the Court of Common Pleas and tried completely de novo. The Interim Committee Bill does away with trial de novo. Turning to Page 4 which outlines the Family Court. The Interim Committee Bill makes no provision for the establishment of a Family Court, and the Bar Bill and the Administration Bill are substantially in agreement except as to the actual technique of establishing the court. The Bar Bill established a new court, a court of equal statute to the other courts within the Judicial System with a staff of 9 judges, the jurisdiction is wide, what we might refer to as Social jurisdiction, covers all matters all referring to Domestic Relations, such as divorce, alimony, all matters affecting children, crimes against children as well as crimes committed by children. The Administration Bill covers the same area, however it establishes the Family Court as a division of the Superior Court. I would submit that the Bar Bill recommendation in this respect is preferable in view of the objectives of a family court, which are to remove insofar as possible the areas to be heard before the Family Court, or what we might call legalistic procedures and considerations. It's an attempt

Sen. Barnes continues: to make the new Family Court as close to the present Juvenile Court procedurely as possible, and the present Juvenile Court operates with as little legal red tape as possible, with a minimum of publicity, and it would be the hope that the new Family court would do the same, and I submit that under the Bar proposal, which is to create a separate court, this is more likely to happen, more likely to be attained than it would be under the Administration Bill, which simply sets up the Family Court as a division of the Superior Court. In all instances there are 3 districts set up and the judges travel on circuit throughout the district and can hear sub-offices within the district. And finally, on page 5, Probate Court. The Interim Committee Bill makes no provisions for the Probate Court. The Administration Bill makes no provision for the Probate Court. However, jurisdiction for adoptions, guardians of persons, marraige of minors, etc. are removed from the Probate Court area by the Administration Bill in place of the new family court. The Bar Bill sets up Probate Districts of 12 in the State to replace the 123 separate Probate Districts that now exist. In the Bar Bill the judges do not have tenure, they're elected for a 4 year term. They're legally trained. THe provision of election is necessary under the Constitution which carries a provision for the election of Probate Judges. As a matter of interest there has been a Constitutional Amendment introduced into the House and the first step, which would make Probate Judges appointive to bring them in line with other judges throughout the State. But as far as this present Bill is concerned the judges would serve for a 4 year term and would be elected, but they would be elected from 12 districts as opposed to 123. Sub-offices would be set up within the districts as needed. There would be no trial de novo in Probate matters. Appeal would only be on matters of law. Ladies and Gentlemen of the Committee, that's a rough outline, not intended to be complete by any means, but perhaps it will serve as a working guide to prepare these various measures. In summary, I would urge the recommendation of the Bar Bill, S. B. 793, because I feel its a most complete and comprehensive bill in the field. The principle of Court Reorganization is a valid principle, and I believe it is and I feel the Bar Association measure is the most thoughtful and comprehensive approach to the problem. Where the Interim Bill is concerned, I feel its differentiation between the Municipal Courts on the one hand and the Trial Justice Courts on the other is invalid. If there is to be reorganization of the Minor Courts at all, I feel it should be reorganization of all the courts, we should not stop half way, and as far as the Administration Bill is concerned, I would favor the Bar Bill over it, princciply because it extends over the Probate Court. Once again, I feel that the principle of reorganization is no different insofar as it applies to Probate Courts as it does to the Minor Courts and the other speakers today will be more specific on this, but I feel that

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Sen. Barnes continues: they are as in need of as much correction as the other Minor Courts in our State and certainly if we have got a completely integrated court system with only the Probate Courts left out it will only be a matter of time before they will be included also. And, finally, I feel that this basic weakness from the Administration Bill in that it does not eliminate completely trial de novo, which again is a considerable waste of time and expense to litigants and to the State So, Gentlemen, thank you for your time and in summary, I urge a favorable recommendation of S. B. 793. Thank you.

Chr. Scanlon: Any other Legislators who wish to speak for any of these bills?

Rep. Everett W. Martin, Orange: I would like to speak on one facet of this problem which is accident prevention as it relates to courts. Since more than 80% I understand of the cases that come before the courts of this State are what are called traffic in automobiles. I believe that this is probably one of the most important angles of these bills and I was suprised to find in none of these bills was there any mention of Traffic Courts. There has been a Traffic Court in the City of Danbury. I have heard criticisms of this court, but I have never heard any specific criticisms of it that I thought were valid. And if there are thousands of traffic cases to come before the courts of this State, I believe that in each of the large cities at least there should be a traffic court. Now Gentlemen of the Committee what have our present courts effect had on this problem, since presumably the purpose of the courts is at least try to prevent some of the cases which have come on the rolls of this State I did a few studies in this relationship and since most of you are well acquainted with the problems that have been before us in acts of prevention. I'm going to try to cite one, in which the Governor has tried by taking away the license of those who have been caught speeding.

re regarding SB 491

Chr. Scanlon: Mr. Martin, we appreciate the effort that you must have put into this study, but this morning can we confine ourselves to the Bills on the agenda.

Rep. Martin: Senator, I believe that this statement shows what I think is the defect in the present courts, so that you may change it according to this bill. Remember, I am speaking in favor of Court Reorganization, and one of the reasons that I am speaking in favor of this Court Reorganization is the fact that I believe that our present courts have not contributed in this whole area and I want to explain why. Don't you believe that thats germaine Senator? It certainly has a tremendous bearing in view of the fact that 80% of your cases before these courts are automobile cases.

Chr. Scanlon: We could be here for weeks if we took every subject that is at all touching upon the Court System in the State. We should confine ourselves to the problems of today, and atleast perhaps we can get through.

Rep. Martin: Senator, I agree with you to a certian extent, but I think that anything that pertains to 80% of the cases that come before this court is distinctively relevant and germain, and I'm sure that you will not stop me in bringing these figures to your attention

Chr. Scanlon: I don't intend to stop anyone this morning or any morning, but if we can we would like to stay as close to the bills as possible.

Rep. Martin: The reasons I feel that these courts have not fulfilled their function the way they should. Let me give you just one illustration: In the year 1955, which was before you suffered the penalty of having your license taken away for speeding, there were 8,630 declared speeding in this State. There were 210 declared not guilty by judges. Now members of this committee, the following year, which was the first year under this penalty, there were 7,205 cases declared guilty and number non-guilty went up to 1,1036 or a thousand more declared not guilty as the result of being charged with speeding and the following year of 1957, that went up to 1290, which illustrated that these courts have not been following out to my mind their intention of keeping and penalizing people who are caught speeding/ Now one other thing, I attended one session of the court in which I sat from 8:30 to 10:30 in which there wasn't a single case tried. One by one they were called behind closed doors and the cases were settled. Now to my mind thats not proper justice of these cases. One other thing in this connection, time after time, in drunken driving cases, the fines have been a minimum of $100, and a large part of that has been remitted. Another illustration in my mind where these courts have not been functioning properly in this area. And Ladies and Gentlemen, with that I close this thing. I believe that the courts should be reorganized, I'm in favor of the Family Courts. I hope that in the reorganization you will consider most seriously studying Traffic Courts in the State of Connecticut. Thank you.

Chr. Scanlon: Thank you. Any other Legislators for these bills?

Senator Abner W. Sibal, 26th District: I am speaking today as Minority Leader of the Senate. I hope the committee will not consider at this time as representative of my position on these bills. I would like to point out however, that this question on court reorganization is as you know one of those most complex that this session of the Legislature must consider. The Minority Party recognizes this. You are familiar with the forum conducted last Wednesday, however, the committee bill, H.B. 3873 is the recommendation of the sub-committee was printed only last Thursday and the Legislature was

not in session that day nor either on Friday, or today, therefore a large number of Legislators or the general public have had an opportunity to read this bill, much less digest it compared to the other proposals.

H.B. No. 3873 (Committee) ESTABLISHING A MUNICIPAL COURT DIVISION OF THE COURT OF COMMON PLEAS.

Sen. Sibal: I suggest that in considering this and also considering that 30 out of the 36 Senators were not there last Session. Therefore, it is up the utmost importance, that any attempt, if there be one, to rush this import-bill through without any attempt of careful considerati be resisted. I respectfully request the committee take this approach.

Chr. Scanlon: Senator Sibal, I might just point out now the Committee itself didn't get the bill before Thursday, and I'm sure that you are aware that there will be sub-committe to work on these extensively before any particular bill is decided upon.

Sen. Sibal: I thoroughly understand that the committee itself did not receive it and no criticism was implied in that remark.

Rep. Almon Searle Pinney, Brookfield: I'm speaking as Minority Leader of the House. I wish to make clear that the Minority in the House has not as yet taken any position on the subject of Court Reorganization. This is a result of the fact that we have not had sufficient time to lay out to the Representatives all of the facts and background material necessary to an intelligent decision on this complex subject. I would point out in this connection that 50% of the members of the Legislature and this is true on both sides of the House, are serving their first term and to them this is a matter of first impression. For at least 35 years various groups have been studying and suggesting in this field. Each year different proposals are advanced, even those of us who have spent much time and effort in this general area, must in fairness take the time to comprel the various proposals. The bills before this committee differ in serious and substantial ways, even in their approach to an identical problem. For instance the Administration approaches the Family Court from an entirely different direction and on completely different concepts than the State Bar Bill. These approaches need to be studied and evaluated. If there is to be Court Reorganization, we must still study and solve the many difficult substances of these problems. We have been and are continuing to assemble and disseminate the members of our Party and to anyone else who is interested the facts on thisnproblem. When this process is completed we hope to arrive at an intelligen conclusion which will be in the best intrest of the State.

Chr. Scanlon: Mr. Schlossbach, are you speaking for the bills?

Rep. Benjamin M. Schlossbach, Westbrook: I would like to speak in preparation for defense of these bills.

Chr. Scanlon: We would first like to hear all the proponents, if you please?

Senator Gloria Schaffer, 14th District: I would like to register in favor of the Cpurt Integration and the Court Reorganization bill.

Chr. Scanlon: Any other proponents in the Legislature that is? Any Legislators in opposition to these bills?

Rep. Schlossbach: I would if it is possible, at this time merely like to speak shortly and briefly in opposition to the bill as a Legislator and then if I might include my statements with the opposition of those who will speak who are not members of this Legislature.

Chr. Scanlon: We will hear you now on your position as Legislator.

Rep. Schlossbach: The only opposition I have now at the present time coincides with that of my colleagues. And that is approximately two weeks ago I requested, if you recall, that this hearing be postponed for an additional two weeks in order that we might have all of the bills before your committee at one time. At the time of the request, you will recall, the Bar Association Bill and the Administration Bill had just been printed. Those of you who have seen it now, know that it is in effect a lumnous pamphlet, that is the Bar Association Bill, and the Administration Bill is much shorter. Howver, I doubt very much whether anyone, whether he be lawyer or layman, could have read and properly studied those bills in the period that has been given to him. And I might say, that I particularly having been with this subject since 1953, after using practically all the time that perhaps I should have used on other bills, have been unable to do so at the present time. Howeve: I am prepared. It does seem to me that we have rushed into this hearing here today for not other reason that everyone feels, that is everyone in power, that this bill should come up and be pushed through as quickly a: possible. This is a big step for the State of Connecticut for it to take, and I personally believe that we are doing it a little bit too fast. I will speak of it a little bit later when I join those who are in opposition, but I do believe that an additional hearing should be held on the new bills that have come in.

Chr. Googel: Mr. Schlossbach, may I respectfully remind you Sir, a year ago the hearing on the Court Reorganization Bil were held on February 7th. Today is February 9th, I don't recall you at that time objecting to the great haste in hearing those bills. And as Senator Scanlon has pointed out there will be a sub-committee on court ordered by the Judiciary Committee, of which you are a member. They will give everyone an opportunity to

Chr. Googel continues: state their views so that no one is trying to jam anything down anyone's throat or to meet any deadline. It's merely that we would like to get along on this important matter. We realize that this is a complex problem. We want to get as much information as we can from the public at large and this is the intial hearing on Court reorganization.

Rep. Schlossbach: Mr. Chairman, in answer to that may I say that what happened in 1957 does not have to happen in 1959. It was wrong then, it's wrong now. Also we have failed to take into consideration that the people who are going to be affected by this change are the people of the State of Connecticut, and I believe that we as a committee have a duty toward those people to give them all the information so that they may make up their minds and they may speak to their Legislators and try to get them to vote for or against this bill.

Chr. Scanlon: Any legislators who wish to speak in opposition?

Rep. Robert H. Barnes, Montville: I rise to register my opposition on the Court Reform measures that are coming up. This may seem to be a paradox, the town of Montville being a Democratic town for 25 years. We had a referendum and the Town of Montville went on record wishing to retain the Justice Court and also wishing to retain its Probate Court. Now in keeping with the new policy and philosophy of this Assembly in which the Legislators are not supposed to come and harangue the committees at great length to give the public a chance I have prepared at my expense a brief. I have 35 copies here and I should like to give them to the committee and I respectfully request that you look it over. I have voiced my opposition. I am not as some people going to tell you what to do, however at a later date if you should like to have me talk about what I think could be done I would be very happy to come back and do so, but only upon your invitation. I should now give you these copies. There's a copy for every member of the committee. Thank you very much (See Exhibit folder)

Chr. Scanlon Representative Innes, did you wish to speak?

Rep. Allan C. Innes, Thomaston: On these particular bills pertaining to Court Reform. It seems to me the first reaction of anyone of our local citizens, particularly in the small towns is that they're for Court Reform. But when it is explained to them what it means to the town, they seem to change their minds. Now in the small towns, the courts meet at night, which allows the citizens to go there after working hours and when the new set up is made I believe that the courts will beheld during the day time, which is going to be a great inconvenience to the people having to go during the day time and lose time at their work. Now it could well be that there be so many cases piled up that they might have to lose an additional day to come there. Now this does not seem to go so well with people of smaller communities. At the present time if they're not satisfied with the decision of the Trial Justices, they can always appeal to the Court of

Rep. Innes continues: Common Pleas and I don't think that this argument that Trial Justices do not give good thought to the case and good decisions to them is warranted. I believe that some sort of training of course could be given to trial justices which would maybe eliminate these objections. Further than that when you come right down to changing the Probate Court, that certainly would a frightening upset to any small town because I think that the general opinion is that they are all pretty well satisfied with their Probate Court procedure now. It is done in a good friendly manner. The people know their Judge of Probate and the cases are handled in a very efficient and quick manner. One other thing on the basis of cost, I believe that a system like this would be quite expensive and particularly from the point of trying to balance the budget without any additional tax. When you figure out that there will be 40-50 new judges in the Court of Common Pleas and the Family Courts and the Judges of Probate, etc., in addition to that of course you'd have the Prosecutors, secretaries, stenographers and other attendants. I think that it would be just as well to stay the way we are. I grant you that there might be improvement. But let's make the improvements and not go all the way and I sincerely hope that the Committee will give it serious consideration. Thank you.

Chr. Scanlon: Are their any other Legislators?

Rep. Margaret Strekas, Somers: I couldn't give a long speech but along with the majority, I believe this is a public hearing. But one thing I am very much opposed to this reorganization bill S.B.491. We seem to forget up here on the Hill that the people are to be served by these courts. I have been a resident of the town of Somers for the past 21 years. I have yet to hear critism of our trial justice courts. And as the public be served, and every Legislative Session has a watchword. The watch word of the 1959 session I believe is Economy. According to Chief Judge Carmody's report for the year 1957 of the 102 towns served by these Trial Justices, it has a total population of 314,590 who were served. There were 19,000 public cases tried at a cost of $107,129, or approximately a cost to each person of these towns of 35¢. How much is this new system going to cost. That's one thing you don't hear anything about. And most impressive of all of these 19,000 cases tried, less than 5% of the verdicts were appealed. Gentlemen, please consider this carefully. Thank you.

Chr. Scanlon: Any other Legislators?

Rep. Andrew Repko, Willington: I want to voice my opinion. I am opposed to S.B. 491, 492 and 793, as for the other two, I haven't had a chance to go through them. But on S.B. 793, I wonder if we realize what we are doing to

Rep. Repko continues: our constituents and does this committee realize how serious this is. They have put us up here because they feel that we are here to protect them. Here we are doing away with something we will have no power over when it comes to appointing these judges whenever they want to. And the cost is tremendous folks, I say this in all sincerity because I have checked it. We've done this thing in '55 on our county homes, and we have added a burden of 3½ million dollars more to the taxpayers and we are going to do the same thing here. Thank you.

Chr. Scanlon: Any other legislators?

Rep. Daniel J. Burns, New Hartford: I would like to register in opposition to all these Court reorganization bills. S.B. 491 and S.B. 793. I believe in the 1955 Session of the General Assembly it was given to the Chief Justice of the Supreme Court of Errors the authority to administer the conduct of the lower courts. That and the Chief Judge of the Municipal Courts was appointed by him as well as the Chief Justice of the Trial Courts. Since this has not had a chance to work out wouldn't it be fair to give it a chance and see how it works. I think that if there is anything wrong with the town courts, and the Municipal courts in dispensing local justice, this Administration should be given an opportunity to work. I question seriously whether there is anything wrong. It is true that in some Justice courts, non-lawyers are appointed, but I am sure that even the lawyers would agree that in some instances some of these men and women are at least as capable as some lawyers to be appointed. There seems to me that this is of minor importance compared to the expense that is contemplated in setting up this very elaborate and confusing system that is to be proposed, particula in view of the fact that the Administration of the Chief Justices has not had time to work. Secondly, no consideration is being given to the major court, yet here there is no question but what improvements could be made.It is an adversity to justice to have cases docketed for two to three years before hearings, and another year before a decision is made. It seems to me that instead of generosity concerned as to what is wrong with the minor courts, I think instead of requesting that we support something thatbwe can't afford, that it would be appropriate if there had been before us a request to increase the number of Common Pleas and Supreme Court justices. Thank you.

Rep. Edwin O. Smith, Mansfield: Mr. Chairman, I don't know that you need the votes of small towns to accomplish changes in the courts as proposed, but certainly it is obvious that it is a great disintination on the parts of many small towns to losing their Justice Courts and their Probate Courts. I'm very sure that you can get more votes as to reorganization in the courts in the upper levels for seeting up all the district courts you want to and getting jobs for all the lawyers that you want to. If you would pay some

Rep. Smith continues: attention to our attitude in reference to our own local courts. We don't look with favor on the transferring to a District Court all the petty traffic cases of fines of $3 which we now handle locally. We don't look with favor on maybe wiping up the small claims courts which have been set up to relieve the upper courts, drawing a volume of comparatively small amount of work up to this new court. And I simply want to say if, there is no organized opposition to this, but I think you can see there is a spontaneous reaction on the part of the small towns. So far as I'm concerned, let us keep our Justice Courts and our Probate courts as they now are. We don't care too much what you do with the rest of the establishment.

Chr. Scanlon: Any other Legislators?

Rep. Harriet L. Clark, Cornwall: I wish to register in protest against S.B. 793 which concerns the Probate Court. I trust I will have a chance to talk further at a sub-committee hearing.

Chr. Scanlon: Are there any other legislators?
The Chair will now recognize Mr. Charles Pettengill, Chairman of the Citizens for Better Courts.

Mr. Charles Pettengill, Chairman of the Citizens for Better Courts: Mr. Chairman, members of the committee, Ladies and Gentlemen: This isn't my ordinary voice, so fortunately for you I will be briefer than I had originally intended, which was pretty brief. Your courtesy in permitting us to speak so early in the hearing is much appreciated. In consideration thereof, and consequently as a result of my lack of voice, we shall make our presentation very brief. I had not intended to say anything about some of the arguments against the bill, but I will respectfully point out that the Citizens' Committee of this State has spoken out rather overwhelmingly in favor of court reorganization.. It is more of a coincidence that the principle issue at stake in the last election was the matter of Court Reorganization Also it is easy to understand why in the small towns the select men of the prevailing party would like to be able to appoint the trial justices, and also it is understandable why in the small towns where in one instance a town of some 300 population has an income of approximately $37.50 per capita from the justice court system, why they should want to maintaim it. And there are others, I could speak generally on the subject were it necessary, but that is just indicative of the type of opposition that you will encounter and it seems to me that the election in November indicated pretty well how it was felt about this issue in the campaign. Now today you men and women of the committee are considering some four bills, two of them Administration, one the report of an Interim committee, and the Bar Association Bill. As a lawyer I have my own opinion as to which of those bills you should select, or which bill you should work upon. As a lawyer I would recommen

Mr. Pettengill continues: that you embrace in your legislation the principle items of the State Bar Association Bill, but as a citizen, I think I should say that representing citizens that there are two or three items about which there is little or no controversy. No. 1 the Family Court principle, the idea of a Family Court was included in both platforms, the platforms of both Political Parties, so it seems to me that you should adopt number 1 a Family Court, whether the Family Court is to be a division of the Superior Court or a separate court as proposed by the State Bar Association is for you to determine. I would like to point out however that the most successful court, Family Court or Domestic Relations Court of this character is essentially a division of another court. And I'm not saying that to indicate that I do not favor a complete separation, but I want you torealize Gentlemen, as you study this, that it can work as a division of the Superior Court. Now the citizens generally in my opinion have spoken in favor of full time lawyer judges. They don't care I don't believe how this is accomplished, but they want competent men and women on the bench. They want to feel that when they come to a judge, he is actually a legally trained man who can comprehend the legal issues, who has dignity, who has no conflicting interests and who will administer the type of justice that we here in Connecticut are entitled to expect. And every citizen and everyone in this room will admit some improvements could be made in our present system at the local level. The only problem is how far should we go. Now it strikes me it is an understatement to say that this legislation is long overdue. It strikes me that now is the time and this is the place to get started on this most important legislation for the good of the people of this State. We have invited one or two members of the committee, of the executive c ommittee to speak, and in the interest of saving your time I would appreciate your indulgence if I might introduce them. On my left is the former Chairman of the Citizens Committee, Judge Jennings, a former judge of the Supreme Court of Errors, a man who for many years has been interested in court reorganization. He is not formally a member of our present committee, but two years ago at that hearing on February 7, he represented and spoke for the Citizens. I will ask Judge Jennings to speak, please.

Judge Jennings: Mr. Chairman and members of the committee, it was just about a year ago that I stood in this place under similar circumstances, and due to influences which I do not here describe, nothing happened to the court reorganization matter at the last Session. I am glad you feel that the atmosphere is more favorable at this time. The possibilities of doing something about it are great. It does not seem to me open to argument that any person who gets into court is entitled to ask the question which is bothering him and have it decided by a fair and impartial judge who has no interest in the matter. That is not the situation today here in Connecticut. Especially in the Municipal Court, there are conflicting interests that even with the best will in the world, a

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Judge Jennings continues: judge would find it difficult to entirely control. As I said before it does not seem to me that there is any question to debate about the desireablity of having trained and impartial judges on a full-time basis. In matters of detail I recognize that you have a very difficult task with the mass of material that you will find available to settle this question both in this state and elsewhere. I had a suggestion that I hadn't heard advanced before and take it for what it's worth. At first I had two suggestions; the first is that this is not a matter of constitutional amendment, it is a matter which can be brought up any time at any session of Legislature and the harm that is being done if any can be remedied. The other idea I had was that this subject divides itself naturally into three parts. The Family Court, Probate Court and Municipal Court, and while they touch at many points they are in a way independent and it might be possible to concentrate on one or two of them without having to reach the third. I hope that will not occur. As I said before the atmosphere seems to me favorable now for action and atleast we have a Senate and House that belong to the same party, a party which has twice passed this Bar Bill so-called, S.B. 793. As I say so much of this subject has been discussed in the press and in these halls for so long it's hard to think of anything new and novel, but I do hope that the committee is going to see fit so that it can give some relief and if possible see that it is entirely passed - the Bar Bill. Thank you.

Mr. Pettengill: I would like to ask Millard C. Fort, who is a layman and who is interested in this subject to speak if he will.

Millard C. Fort: I would like to emphasize that I am speaking first as a citizen and incidental to that as Vice-Chairman of Citizens for Better Courts and in that role would like to confine myself merely to one point, namely that as a layman and as a citizen it seems to me that reorganization and modernization in Connecticut's courts makes an excellent case for itself on the basic grounds of simple logic. By that I mean, that not to have the finest possible court system, it seems to me to be entirely inconsistent with every tradition that Connecticut and its people stand for. We have a reputation as a conservative, progressive and certainly an efficient people. We try to maintain the highest possible standards and goals for all aspects of our lives. If for example, you were to pick education or health or roads, or virtually any other public matter, Connecticut is almost invariably in the fore front. Why then should we tolerate our archaic or inefficient justice on any score. Justice certainly is a form of public service. Poor justice obviously without the vibration contributes lag, leak and friction in cost in practically every faction of our lives, in both individuals, our companies and our institutions. Now if there were some compelling reason why good justice were not available in Connecticut then we might have some excuse to put up with an inferior type of judicial

Dr. Fort continues: service. One can hardly think of any such compelling reason. Therefore it seems as I say in the interest of logic that we certainly ought to seize on this present opportunity. After more than a quarter of a century of talking about doing something to reform and modernize our courts, to achieve the best possible judicial system that we can for out state. So as I say if we are a logical and intelligently conservative people, then we certainly ought to be consistent in this instance with our own best traditions, because the best of justice is clearly no luxury, indedd it is a compelling necessity in its own right and surely poor justice is no economy.

Mr. Pettengill: Is Representative Josph Rourke in the room? Rep. Rourke is a member of our Executive committee and as you probably know is the Secretary-Treasurer of the AFL-CIO in the State. He wished to be heard on that matter. I have received a few wires which I would like to read into the record. They're very short:

The Bar Association Bill in favor of completely modernizing courts has my support.
Marion C. Sheridan
Chairman, American Association
of University Women of Conn.

As a Non-lawyer I favor the Bar Association Bill over the Administration Bill on reorganizeing the local courts stop the latter infers that our local must remain inferior by permitting trial de novo.
John Fox

Please convey to the Judiciary Committee my fond hope that Connecticut's antiquated minot court system can be reorganized to modernize wiht uniform integrated minor courts and responsible officials will better serve justice and be a credit to Connecticut.
Adrian Wadsworth

It is my sincere hope that the reorganization of our coursts will be accomplished at the present Session of the Legislature. I refer particularly to to the abolition of the trial justice court and of the system of part-time justices.
Albert C. Jacobs, Trinity Colle

Though I will be out of the state at the time of the hearing on Court Reorganization on Feb. 9 I would like to join my fellow Connecticut citizens in urging immediate and thorough legislative action to achieve the kind of modern court syytem so long overdue in our state. The excellent record of progress of which Connecticut is making on many social and economic fronts is daily being inhibited by the efficiencies, delays and needless costs imposed on the life of the State by our conspiciously obsolete court system. Will you add my voice to those who urge a thorough and realistic reform of our court system at the present hearings.
Walter H. Wheeler, Jr.
President, Pitney Bowes, Inc.

Mr. Pettengill continues: John S/ Black, a member of our committee, the Secretary of the Stanley Works has sent a wire, a wire from Frances Redick, who served two terms as Secretary of the State of Connecticut, a wire from Adrian Wadswoth, already mentioned. I have not mentioned the Probate Courts, not because I am not in favor, or we are not in favpr of the legislation affecting these courts, but because of the issue of the Probate Court being not clearly brought before the electorate in November. However, I would like to point out that those courts should be manned by full time lawyer judges. We now have only 43% of our courts manned by law-trained judges and 57% do not have the training of lawyers. And one further in closing statement, as you recall there has been plenty of publicity upon the salaries of the judges, particularly the judge of one court, who receives some $40,000 from fees, and of course if this system would be done away with under the proposed legislation that judge would be taxed $15,000 I believe to support the Probate Assembly. And the Probate Assembly I would like to suggest respectfully if a group of Probate Judges were organized pretty much to continue this syetm in operation. And as part of this$15,000 which Judge Johnston contributes and other judges around the State, they employ an executive secretay a very efficient and experienced man who has stated in a pamphlet which ho doubt you have seen, prepared at the expense of the Probate Assembly. The Probate Assembly has made available the service of the Executive Secretary as research and law-clerk to all the Probate Courts in the State. He submits suggestior within reason and written memoranda to be layed before parties and their counsel. He constantly stresses the controlling force of facts and the necessity of determining this.

(Machine Breakdown - Five Minute Recess in Hearing)

Chr. Scanlon: We will recess at 1:P.M. for lunch until 2:P.M. if anyone cares to make any plans along that line.

Mr. Pettengill: Are we on the air. I would first like to inject an apology to Marion C. Sheridan, of Hamden who sent that wire I read to you. She is the President of the Association of University Women in Connecticut, and I should have known that. She of course rpresents an organization which has studied this subject and is familiar with the problems. I was stating that the services of the Executive Secretary of the Probate Assembly are made available to the judges of the various courts. 57% of whom are not lawyers. In other words, a man who may be a butcher, or a grocer or a farmer or even a housewife who has been elected Judge of Probate and has the title of judgehas available to him or her to analyze these complex problems, the services of one of the finest Probate experts in the State, that in my opinion that is not the matter in which justice should be handled. Now I understand that Judge Henschell, of

Mr. Pettengill continues: New Haven, who has been working with this subject for many years, would like to make a statement at this time on behalf of the general subject.

Judge Charles Henschell, Judge of Municipal Court, New Haven: I was admitted to practice in January, 1931, and the Honorable Judge MacEnvoi (?) spoke to the clients of newly admitted lawyers at that time. I recall very little of what he said. There is onething he did say that I guess stood out in mind, because there's hardly a lawyer that hasn't heard it said many a time and that was that the Law we would find would be a hard task mistress. That I suggest every lawyer who has practiced any length of time knows. Along with it and maturity of practicing law comes another understanding and appreciation of the fact that as you study the history of our country and our Constiution you begin to realize that one of the fundamental principles of our system of government is a sound judicial system. We cannot, and particularly in these days when we must, have a sound democratic system unless our judicial system and our system of jurisprudence will do for us what jurisprudence has been doing through the ages for civilization. Civilization cannot stand without a system of law. And we recognize that this is a government of law in this country, not a government of man solely. And that is the reason why I have been most interested in this subject even before I became a judge of the Municipal Court. I was a member of 1945 and 1949 Session and I believed then as I believe now that we must have a proper judicial system. And I was a bit upset with my old friend from Mansfield, Mr. E. O. Smith, who I know to be one of the leading layman students of constitutional law and the Constiution of the State of Connecticut, who made the statement which elicited some applause from some people at this gathering to the effect that they weren't concerned with what we did with the rest of the court system, so long as we left the small justice trial court and the Probate Court alone. Some other representtative who spoke here talked about the fact their trial justice court had served well in their community, and has been above criticizm. Let me say that the merit of this whole issue is not one of critism of the small town trial justice or of the small town trial probate district court for that matter. I don't think that anyone can question the fact that those people who serve as trial justices as well as the gentlemen who service as judges of our municipal courts or our higher courts are not all equal and on the same plane when it comes to integrity and when it comes to handling their jobs, in the best way possible, but that does not lessen the fact that we have a judicial system that requires reorganization. A judicial system that has been in effect in this state ever since it has been constututed as a state and before then. Now I could go on at great length and tell you of a great many evils, if you want to characterize them as such, that prevail under our present system, but afraid that I would be taxing the patience of this committee for too long a period of time

Judge Henschell continues: But let me say to you, that fundamentally, under our present system, we have taken away from many, many people the right of a trial by jury. We have, instead of throwing open a medium in our small claims courts for instance, of getting speedy and proper justicefor the creditors, we have iniated the system which at times is particularly vicious. Do you know that if you were to bring a matter into small claims court, in any court, in any town where there is a small claims court set up now, and if your opponent wanted to, he could transfer that case to the civil side of the court for a payment of $2. Then he could file a motion to transfer that case to the Common Pleas Court for a jury trial for $16. What about the poor fellow who is in there and wants to collect $50 or $100 from the deadbeat and is faced wiht all of these moves and they do occur. I don't know whether they occur in the small towns, but they do in New Haven. And he is faced with the necessity of finally going before a jury in the Court of Common Pleas and he usually never gets there because it becomes economically impossible. And on the other hand, we have frequent occasions in New Haven and I'm sure it takes place elsewhere, where a wage earner is faced all of a suddnn with a wage execution, and that execution takes from him everything that he earns in excess of $25.00 and he has no previous notice that a suit has been instituted against him or a judgment been obtained,that a wage order has been issued against him. And the reason for that is a very simple one, in many instances, yes, lawyers who are in the collecting business, as well as tradesmen seeking to collect bills, will file an address with the Clerk of the court and a registered or certified letter goes out and that person is no longer living at the address that's given and as a result the judgment creditor is told that if he files an affadavit of residence he can obtain a judgment. So he files an affidavit, not based upon personal knoweledge, but based upon belief. Now the truth of the matter is that in many of our larger courts and I think that this is true of almost every small claims court. That affidavit is not questioned, it's not checked. It's assumed that it is in proper order and the first thing that wage earner knows, he's had a judgment obtained against him. In the City of New Haven in our small claims division we have from 400-600 different matters presented to the judge that is sitting on that small claims of that court on every single Monday morning. It's impossible for him to check those, and his clerk who should is in there holding a political job and feels that if he gives up 2 or 3 hours a week, that's all he's getting paid for, and he doesn't check those affidavits. Now those are not necessarily evil, but they do represent some of the practices that occur, and I say they occur in all courts, all over the State. Those things rot away the foundation of our judicial system. If the man who never has any contact with our court system excpt in the small claims court, finds that he has been badgered and plagued without any opportunity to reply or come in and that he is now

Judge Henschell continues: faced with a wage execution, what is his reaction to our court system? What does he think of Connecticut justice? And that's only a very minute example of many of the things that taek place. It is my belief that courts should be impressive, that they should be a majestic system and place where people will have the proper conceptionof what our law is, of what our system of jurisprudence is. We have seen totalitarian governments take the system of jurisprudence and prostitute it only for the edificatio and the best interest of a small ruling class. Do we want that to happen here in the State of Connecticut? Are we going to say that because we have had a system that has been in effect since 1818 that it has served some towns well, that it is not necessary to reorganize it, that it is proper and good and should be permitted? Do we still live in the year of 1818? Is it necessary for us to have part-time judges, whether they be in Municipal Courts in our large cities, working on the one hand as a judge in the morning and then appear-in another court as attorneys and perhaps in opposition to some attorney that has appeared before them that same morning? Do you think that these things do not have some influence and bearing on the decisions the judges make? Subconsciously or unconsciously I can say that as a judge of the Municipal Court being as conscientious as I could hope to be there are many occasions and there isn't a member of the Bar that won't recognize them when I am influenced either by the fact that I have been preferred by my political party and been given a judgeship, or I am being influenced by the fact that there is someone else in the case. Ladies and Gentlemen, there isn't a court in the State of Connecticut, including the trial justice courts, that doesn't hand out one kind of justice to the man who appears in that court, whether it be criminal or civil and I dare say its much less on the civil, for the evil is greater on the criminal side of the court, when someone appears with an attorne representing him as the man who appears without an attorney. There can be no question about that. I admittedly will penalize a person who appears before me charged with drunken driving without an attorney and pleads guilty. I'll penalize him more so than I will the man who appears with an attorney and pleads guilty to the charge of drunken driving. There isn't a judge in this State if he's frank and honest that won't acknowledge that to be so. I could give you instance after instance where there is unequal justice and to revert back to the small town courts of trial justices. If you go and examine the dockets of those courts and compare the penalties that are imposed upon the resident of that particular town with the imposition of the penalty of the out of towner, a man who c from some other part of the State or from another state, and I guarantee that you'll find that there's a difference in the penalty that's been imposed. I'm not being critical of that, what I am being critical of is the fact that we must have a court staffed by competent persons and no one can administer the law unless he is a qualified lawyer, whether it be in

Judge Henschell continues: the Probate court or whether it be as a trial jsutice in the small town court or even as a judge in a Municipal court. We have judges in municipal courts who are not members of the Bar. He cannot sit and preside in his court unless he is so qualified. He can't do it on a part time basis. He can't do justice to the citizenry of our state. He can't do justice to our system of jurisprudence, if he is a political beneficiary, if he is concerned with other factors. The mere fact that a busy lawyer is taking time out. Well you can tell me that he sought the job, well I did too. But he can't be sitting there in that court listening to his docket on either the criminal or the civil side without looking at the clock and wishing that the docket were all over. Believe you me it doesn't take very long for a man who is a judge sitting in a court to lose all sense of being holier than thou. He's more concerned wiht getting rid of his business and getting back to his office. And those things influence you. They influence every person who is sitting in any court of this State unless he is able to devote his full time to the position he occupies, unless he is giving his full time to that task, unless he is devoted conscientiously to carrying out his function as a judge, listening to every case, handing out equal and impartial justice without consideration of political preferrment or political votes, or members of the Bar with whom he may be friendly,with whom he may play cards on one night and with whom he may be in a matter on another day. This is not a good system and we weaken our entire democtratic process as long as we maintain this kind of a stop gap system. We must have am judicial system in this state. The people have asked for one which will insure equal justice, impartial justice on every level. We must do away, and this is one of the steps towards doing away and overlapping of our court system. Is it proper, is it necessary for members of the Bar to have to be in Municipal Court for a short calendar on one day and at the same time be required to be before the short calendar of the Superior Court and the Common Pleas court at the same time. I don't think it's proper. There are many evils intended upon our system and we'll never get rid of them all, I know that. But certainly we have in the past indicted our minor court system when we did away with Constable fees and costs in our minor courts. We've tak a number of other steps over the years and we have done it in a half-hearted manner saying we passionately admit that this is not a good system, but we'll slap a board down there and put a stick up here and then we'll try and rform it in that way. I think the time has come, members of this committee, when a complete job should be done by the adoption of a new judicial system in the State of Connecticut.

Mr. Pettengill: Just one concluding statement, I would like to point out that the Citizens committee complies representatives of industry, labor, federated women's clubs, educators, and farmers, and in concluding I would hope that your committee has prospered by the example of what happened to the Tweed commission and the proposed legislation in New York a year ago. The committee due to the

Mr. Pettengill continues: committee's recieving pressure from all sources compromised and made exceptions. There was gerrymandering with the result that the bill was finally watered down to the point where even the League of Women Voters couldn't support it, so I respectfully suggest Ladies and Gentlemen of the committee that thousands and thousands of Connecticut citizens who in November voted for court reorganization look to your organization to be strong and provide the necessary leadership. Thank you.

Merle W. DeWees, Executive Director, Connecticut Public Expenditure Council, Inc., Hartford: I do not want to labor you with going over the efforts of the reorganization of the judicial system, I think that's been touched upon already. I want to point out that the proposals embodied in S.B. 793 are the results of 7 years of work by the State Bar Association's Court Reorganization committee. The Connecticut Public Expenditure Council recommends S. B. 793 to the committee as a carefully conceived and workable program for the urgently needed reorganization of our courts. Tw o years ago the council studied the operation of the financing of the State local courts and the results of that study were made available to your committee. In some ways our studies showed that these courts handle several times the number cases handled by the State maintained courts. There are courts where the judges are more often without legal training. There are courts whose judgments are subsequently tried in the higher courts with resulting duplication and waste of effort and courts which in many cases hold regular sessions infrequently or not at all, and whose judges, in the case of the Probate courts are still compensated by fees wiht the result that among them are the lowest and highest paid judges in the State. These judges in the case of the Municipal courts are not maintained in office on the basis of merit and experience but on the other hand seldom survive the election of a Governor of the opposite party. There are also court records with the handling of millions of dollars that have time and again drawn critism from the auditors and public accountants. The Council's study has documented these and other aspects of the present local court operation. We believe that the provisions of S.B.793 will effectively meet these long standing problems. In addition under S. B. 793, the cases now handled by municipal and trial justice courts will be handled by duly trained judges dvoting full time to their judicial duties. The financial instance, the probate judge and their fees will be eliminated, they will be paid salaries equal to other judges in the State. The expense and time involved from the retrial of minor court cases will be avoided. Sessions will be held as the amount of business demands and economies can be achieved by making the most efficient use of court facilities and judicial personnel. A most important feature of S.B. 793 is its provision for effective over-all direction and adequate fiscal and personnel control. If properly used here, these

Mr. DeWees continues: latter provisions will make it possible to operate our courts efficiently and economically. These safeguards are lacking in the other proposals for court reorganization now before you. Thank you.

John Q. Tilson, Chairman of Committee on Legislation, State Bar Association, New Haven: We have before us the bill that Senator Barnes explained to you earlier, that is the bill supported by the State Bar Association. It seems to me that your committee and this General Assembly have a solemn obligation to do something this Session with Court Reorganization. The handwriting on the wall is all too plain for some of us Republicans to see at the last session. It seems to me that something must be done. We are very mush encouraged to hear that you aer appointing a sub-committee on courts. It's obvious that there are things in all of the bills that have merit and the matter can be worked out in cooperation wiht our association. We have today here a considerable number of people from the State Bar Association, but we are not going to inflict their words upon you. I have however, four speakers. I would like to intorduce them briefly in the same manner that Mr. Pettengill did. I would like to first introduce Jonathon Ells, of Winsted, President of the State Bar Association of Connecticut.

Jonathon Ells, President, State Bar Association: Gentlemen of the committee, for more than 30 years the subject of court reorganization has had the attention of distiguished jurors, lawyers, and laymen. A proposal has been made time and time again to improve our judicial system. Few changes have been made. Nothing has been done to remove the fundamental weakness of the system below the level of the Common Pleas Court. It is a hodge-podge of so-called minor courts, staffed in many instances by well meaning laymen without technical training, struggling to administer law in the 20th century with an 18th century system, Staffed in other instances with part time lawyer judges paid varying salaries with uncertain tenure and dependent on their office on shifting political winds A system whereby Connecticut lawyers appearing as trial justices in one town may impose a fine not exceeding $250 or a jail sentence not exceeding 60 days, whereas in anohter town wiht a socalled Municipal court a lay judge of such court may take jurisdiction of a maximum sentence calling for 5 years in State Prison and may impose a fine not exceeding $250 or 6 months or depending on the population of thentown or city may impose a fine of $500 or one year in jail, also which is dependent on population and not at all upon the legal learning of the judge. Our courts originally were adopted in a society wihhout automobiles, plumbing electricity, railroads, and a thousand and one things we take for granted today. There was some justification in the 18th Century for a justice court system when it took an hour to go four miles by horse and buggy. Obviously no such situation remains today. In an interesting article some months ago an author

Mr. Ells continues: discussed various British governmental institutions which we borrowed and adopted in the founding of the Republic. Many ofthese instiutions developed in England to meet the present need. Now grown hoary with age they have long since been abandoned by our English brethren whom we are all too prone to criticise as being conservative. Some of these same instiutions long out of date we persist in claiming as though they were the very colors of wisdom. We continueto look to the layman to interpret the law in many of the minor courts, apparently on the theory that such law is simple, easily understood by the neighborhood grocers, or layjurists. Whether it is as simple when the Justice of the Peace is called upon to interpret opinions of the Supreme Court, the words of Justice Pound, formerly of the New York Court of Appeals in refrring to the preparation of legal instruments sees particulatly at I am unable to rest any satisfactory tests on the distinction between simple and complex instruments. The most complex is simple to the skilled and most simple trouble to the experienced. The United States Constiution though adopted in more simpler times, stood the stresses and strain of time and change because traditionally it has been the men learned in the law who interpreted it and gave it meaning. By similar token our Supreme Court, Superior Court and Court of Common Pleas have always been manned by lawyers. There's no talk in changing the fundamental concept of these courts. They have stood the test of time and are among the best in the country. What makes them so is the fact that the judges are lawyers, reasonably secure in their positions, receiving substantial salaries and possessing the dignity and integrity of their high office. The cost of operation of these proposed new courts as compared with the present minor court system is often discussed. Of course cost of this is important, no one would deny it. The amount of fines collected by the Justice courts in 1957, which went wholly to the towns and not to the State was about $190,000. The total fines collected by the Municipal courts, with 7 courts not reporting, was $1,387,851, from which should be subtracted a rough estimate of 1/3 for motor vehicle fines going to the State leaving an approximate net of $900,000 or an overall total of approximately $1,100,000 from justice and municipal courts going only to the towns and not to the state. Undoubtedly this total increases under the proposed reorganization plan due to three factors: the increased jurisdiction of the new court from the present 250 limit of the trial justice to $1,000 criminal cases. Discontinuance of the present practice on occasion permitting the remittance of part of a maximum fine prescribed by the Legislature in certain offenses, notably drunken driving, the presense of independent law-trained judges who will more in these instances, uniformally make the punishment fit the crime. These considerations should increase criminal fines in most cases by an estimated 40%. In addition of course

Mr. Ells continues: there would entries, judgments and other fees in Civil cases to be added. In the fiscal year 1957-1958 in Common Pleas, the court was roughly one-third the number of judges as would man the proposed new court, received as civil fees approximately $310,000. Even supposing the new courts received only that amount annually, so it is three times the size of the Common Pleas Court, the total income of the courts, Civil and Criminal should be $1,800,000 at the very minimum. Compare this expected income of the State wiht the proposed salary of the new judges, clerks, prosecutors and other staff of the proposed new courts. Now, Gentlemen, I have worked out a schedule here which is somewhat in accordance wiht my own ideas, but I am sure and they are suggested to you as possible personnel for the courts and approximately what I Personally would think would be reasonable salaries for them. For forty judges as provided by the Bar Bill would be $600,000. Ten prosecutors and seventy assistance, which is certainly very ample for forty judges, would come to $360,000, on the basis of $8,000 for the prosecutors, who would be the administrative heads of the circuit in each case, and approximately $4,000 for his assistants. Ten clerks, again heading up your circuit and thirty assistants on the basis of approximately $7,500 for the clerks and about $5,000 for the assistants would come to $225,000. Clerical assistants is allocated $100,000. Deputy Sherriff, and attendants $150,000. Court stenographers $200,000. Court messengers $150,000. Commodities $100,000, which is very liberal. Jury expenses $20,900. County Detective assistant $100,000. Total just about $2,000,00 These figures contemplate a suggested staff of the courts as follows:

40 Judges @	$ 15,000
10 Prosecutors	8,000
70 Assistants @	4,000
10 Clerks @	7,500
30 Clerks @	5,000

Adequate clerical assistants and attendance of deputy sheriffs at 5 days a week, 50 weeks a year 15 a day each

Of course there will be no such number of attendance as there won't be 40 judges sitting all the time.

a like attendance of court stenographers at---------- 20 a day each

which is very high as the bill does not contemplate that there be a court stenographer in every instance. A large allowance for commodities, a reasonable allowance for investigators.

It is believed that some of these figures are heavily padded to secure an absolute maximumtotal, particularly in respect to sheriffs, stenographers and messengers and commodities. It might be pointed out that the Danbury Traffif Court which is a form of District Court

Mr. Ells continues: and the only perferable type of court now operated by the State costs the State in 1957-58, $18,435, and collected in revenues $18,629, shwing a profit of approximately $200. In the current bi-annium and cost to the State of Connecticut in round figures a net of approximately $7,000,000 to operate the State maintained court. The State's entire budget for the same period was $593,000,000. The third great arm of the government Judicial department, guardian of our fundamental way of life, liberty and the pursuit of happiness operates on less than 1.2 of the entire budget. Any complaint that we cannot afford a decent up-to-date system of justice seems strange indeed. If cheap justice is the object, the solution is very simple, just abolish all the higher courts and leave all the business to the minor courts. The State Bar Association for years has advocated the reorganization of the minor courts. It's committee om court reorganization has consumed untold hours drafting bills introducing them to prior Legislatures and in the present one embodying the principle for which we stand. Questionnaires were submitted to all the members of the Bar Association last year. Answers to this questionnaire were overwhelmingly in favor of the principles embodied in the resolution. Following this questionnaire, an open meeting was held to give members of the Bar Association further opportunity to express their views. Other than a representative of the Probate Assembly who opposed the integration of the Probate Court in the State Court system, no one expressed any fundamental objection to the proposed court reorganization. The Bar Association stands squarely on the resolution adopted by its council following the results of its questionnaire and the results of its meetings. Resolved that the Council of the State Bar Association should publicly go on record in favor of the enactment of a bill by the 1959 General Assembly, which would provide for an integrated Judicial system incorporating all courts within the State, presided over by full time lawyer judges, drawing reasonable tenure in office and adequate compensation. We sponsor the bill under consideration and urge its passage that is S.B. 793. We believe this pain-staking and detailed document will represent a workable system of integrated courts. We trust it will be most helpful to this committee and to the Legislature. This is not to say that we stubbornly insist on our bill in its present form or nothing. The basic objective of the Administration Bill and ours is the same, differing only in detail. It's complete integration of the court system cannot come immediately, then let a substantial part of it come now. We offer our bill for the assistance it will give you in working out many details. In addition to the approximately 36 pages of the provisions just for the courts, there are some 165 pages of necessary changes in existing statutes which must be made. This should have saved the committee a great deal of time in making the necessary changes in other sections of the Statutes affected by the new provisions. If something less than the whole must be, we will support it, observing only that anything less than the whole

Mr. Ells continues: if it does not go far enough, we will continue to advocate the remaining steps for complete integration at a later time. And Gentlemen, may I have one more minute, I wish to offer this resolution, which the Council of the State Bar passed at a very recent meeting: Resolved that the President in conjunction with those in the Association be deemed best, meet with the Governor to designate, and/or the Judiciary Committee of the Legislature to cooperate with them in respect to, or implementing resolutions already passed by the Council.

Chr. Scanlon: Sir, one of the members of the committee has a brief question.

Rep. Satter, Newington: Mr. Ells, I tried to follow what you said. Could you again summarize, not in detail, but just in balancing figures just how much you estimate it would cost to operate the court under the Bar Bill and how much you anticipate the revenue would be?

Mr. Ells: I have figures only for the Justice of the Municipal Court changes, that is into the District court. The total estimated cost of the court is about $2,500,000 and the estimated income is approximately $1,800,000. If it is of any value I'll leave this statement with the committee.

Mr. Tilson: Our second speaker is our immediate past-President of the State Bar Association, James W. Cooper, of New Haven.

James W. Cooper, Past-President, State Bar Association: Mr. Ells has covered the major part and I would like merely to add a little further in the question of a referendum at the meeting which took place last year. There was an earlier referendum which I believe was recorded at the last session of the Legislature and in order that they might be more uptodate in the position of the lawyers of the State on the position of this subject, a second referendum was taken which enlisted a somewhat larger and bigger response both in total numbers and definitely in its conclusions favoring court reorganization. Perhap the questions and the answers may be of the greatest importance themselves. The questions were as follows:

Do you favor the retention of the present court systems without any change?

108 - Yes
728 - No

(In other words about 7-8 lawyers responding were definitely in favor of a court reorganization scheme) Incidentally I should say that this total of over 800 lawyers does not of course represent all the lawyers of the State, but it represents for the second time of the inter-referndum an opportunity of every lawyer in the State to make known his views in the matter and I

29.
Mr. Cooper continues: think there is no conceivable question that if there were a compulsory poll of all lawyers the results would not be far different. Second question:

Do you favor the principle of full time legally trained judges having tenure equivalent to Superior and Common Pleas Judges for all courts of the State?

673 - Yes
139 - No

Do you favor the principle of the State maintained system for all courts?

669 - Yes
147 - No

(There perhaps is enough of the whole business and it comes out to about 6-1 in favor if I have correctly figured this).

Do you favor a State court system in the place of the present Municipal Court?

691 - Yes
135 - No

Do you favor a State court system in place of the trial justice court?

733 - Yes
89 - No

(That is the highest ratio of those in favor of the change of all the answers)

Do you favor integration of the Probate Courts in the State system?

583 - Yes
239 - No

(This is the question on which there was more issue and the answers to the questionnaire believen in this instance to be about 2½ - 1 in favor of change)

Do you favor the establishment of a separate Family court within the State Court system? With exclusive jurisdiction of those matters not handled by the Juvenile Court, domestic relations matters and matters pertaining to minors and incompetents. That's a misprint, it should be now handled not 'not handled'.

670 - Yes
143 - No

This then is a simple statement of the climate of opinion of the lawyers of the state. The overwhelming response in favor of a court reorganization seems to

Mr. Cooper continues: me conclusively made out by this repeated polling of the opinion of lawyers and at its great influence in leading to a definite opinion on the part of the State Bar Association. I as counsel am in favor of this bill S. B. 793 as it has been reported. Thank you.

Mr. Tilson: The third speaker is Ernest McCormick of Hartford, who has spent a large part of his time at this Session and past sessions of the General Assembly on the drafting of the bill. Mr. McCormick isn't going try to give you his reasons for the bill, but he does want to make some explanation of the terms that are in it.

Ernest McCormick: Mr. Chairman, members of the committee, there would be little point at this time of my making any effort to review the existing court structure in this State or its weaknesses or attempting to review for you the provisions of our Court Reorganization bill. Those are matters which will require detailed study on the part of your committee or the part of the sub-committee of your committee for the next several weeks and there would be no point in attempting to review this at this time. Now I am not going to say aynthing about the effort which has been made in this State during the past thirty years to bring about some improvement in our Judicial system. I can only say that those similar efforts are being made in many other states in this Country at this time. The situation seems to have developed to a point all over the Country where there is some need for improvement in Judicial systems has become necessary and what we are doing in this State is being done in many other States at this same time. It has always seemed a pity to me that when the question of Court improvement or court reorganization arises, it immediately becomes controversial. Some people immediately take the position that nothing is wrong with our existing court system. Others take the position that everything is wrong with it and it has to be completely overhauled. That has not been the approach which out committee has taken in drafting S. B. No.793. I think in order to understand what our committee has tried to do, you must see some of our courts in their historical setting. You must realize how many of them have grown much like Topsy in Uncle Tom's Cabin, without very much attention being given to them by the General Assembly and I think when you see these courts in their historical setting and trace their growth and see their development you see very quickly why thetime has come where it is necessary to make some changes in them and why all of us ought to be ready and willing to approach these changes without becoming controversial about it and without becmming emotionally upset or disturbed. Now in illustration it seems to me that one of the simple courts which we can review in its historical growth and development is the Probate Court and I take that by way of illustration, because this same type of growth has occurred in connection wiht our trial justice and

Few

Mr. McCormick continues: Municipal courts and the same need has arisen for some improvement in those courts as well as the Probate court. Now the Probate courts of course had their beginning in early Colonial times. And if you look at the situation in this country at that time I think you can understand exactly why the courts are the way they are. In the first place the State of Connecticut was made up of a large number of towns, each with relatively small population. We haven't yet experienced the explosive population growths of the last few decades. That meant in many towns there were only a few deaths in the course of a year, so that there wasn't much business to be taken care of by the local probate courts and the settlements of the estates of those deceased. Inthe second place the properties and debts of the property owners who died was relatively simple. I suppose in the early colonial days the average property owner left a farm, some farm tools and implements,some household furniture and he may have owed a few debts to his neighbors and that was about it. And the matter of assessing his estate merely meant the handing of the disposition of those simple properties and the payment of those simple debts. Also, in those early colonial days, transportation was of course by horse and buggy. We didn't have the roads we have today or the automobiles, the railroads, or the other means of transportation that are available now. Finally, of course there were few lawyers, there weren't enough to go around I'm sure to serve as judges of those Probate courts and finally there were almost no complications in connection with the settlement of the estate of a deceased. At that time we had no Federal Estate tax, we had no State tax, we had no Federal Income Tax, there were no questions of wills drawn by sophisticated tax lawyers to get the beneifit of income splitting, charitable deductions. No one at that time had heard of the Marital deduction or the proration of the Federal and State taxes among the gifts that might have been given under a will. In other words, to settle the estate of a deceased was an extremely simple thing. Now if you look back at the provisions of the Constiution and the Statutes with respect to the setting up of the Probate Courts you will find that those provisions are just as simple as the situations to which they were applicable. The constitutions of the courts provided that the Probate judges should be elected. The Statutes set up the Probate Court district and the only other Statute that had anything to do with the operation of Probate Court was the Statute which says the towns in the district shouldfurnish the Probate judge with his records and his supplies and give him a vault in which to keep them. Further the Statutes listed the fees which he could charg the litigants who came before his court and then he kept those fees as his compensation for settling the estate. Those were the only Statutes or Constiutional provisions that had anything to do with the Probate Courts. Now when you apply those Statutes to the existing situation, you got the type of court which historically has been the Probate Court in Connecticut. First of all you have a large number of Probate Districts

Mr. McCormick continues: established by the General Assembly. The size of the districts of course would pretty much determine by the length of time it takes a horse and buggy to go from one side of the district to the other. Secondly, a judge in a particular district was selected by his neighbors. He was elected, but I would ssume that in those days most of the people who would vote for Probate Judge knew him as a neighbor. Of course he was not necessarily a lawyer. There wasn't enough business to keep him busy all the time, so he served only part-time. He had no court room as a matter of fact some of you I think will remember at a hearing we had here two years ago, Bill Gordon, who was testifying in favor of our Court Reorganization bill relayed the incident where a Probate Judge of whom he had a matter pending before, held the hearing while he fed the chickens. There were of course no uniform procedures in the Probate Court. Every Probate Court was the law to itself. Finally of course, those courts had no judicial statutes that amounted to very much. While they were charged with the duties of administering the estates of descedents they had no general power to construe a will. They had no power to give a definitive judgment in a matter pending before the court. Any judgment given by the Probate Court was subject to appeal to a higher court and a trial de novo in that court. Of course the court had no power to grant a trial by jury in a matter that might come up before it and finally, as I have already pointed out, you had this system under which the Probate judges were paid by being permitted to keep the fees that they charged in the cases that came before them. Now as time went on, the underlying situation of course since has changed completely. There grew up in the State these large centers of population, for instance, Hartford, New Haven. The property that a deceased left when he died became much more complicated. We had an instance in our own office not long ago, where a deceased died in a very small town in the State with a very small Probate Court, in which he left large bank accounts in that town. He owned real estate in the town, part outright, he had large bank accounts in New York City, he had real estate and bank accounts in Chicago and yet that kind of estate had to be settled in a very, very small Probate Court, presided over in that particular case by a lay-judge. Of course our transportation has changed and I need not go into it at any length, the tremendous complications that have arisen in connection with the settling of the estate of a deceased. Not long ago, I happened myself to argue a case in our Supreme Court having to do with the Prorate of the Federal Estate Tax under the will of a descedent who died leaving a substantial amount of property. While I argued the case, I can assure you that I would be completely incompetent at this moment to attempt to make the computation in connection with that Proratio. Yet a Probate Court has to pass on that question, finally if there is any dispute in connection with it. Now despite these tremendous changes in our life, in the way in which we live, transportation, population

Mr. McCormick continues: complications, tax problems. Nothing new has been enacted by the General Assembly with respect to the structure and the jurisdiction of the Probate Courts up to the present time. The only changes which have occurred in the Probate Courts is that the district has become entirely different in size and entirely different in the amount of their annual income. For example our Hartford Probate district includes I think some 8 or 9 towns with the combined population of something in excess of 300,000, and the annual receipts of that Probate Court are in excess of $150,000. Yet that Probate Court is run exactly the same as the Probate Court was run 300 years ago. The Probate Judge charges fees permitted by Statute, and he keeps the fees and pays the expenses of his court from those fees and keeps the balance as his compensation. I said there had been no new statutes enacted, what I meant was there has been no difference in the courts. This would mean, there was a Statute enacted in 1941 which made some attempt to to provide for uniform procedures in these 122 or 123 Probate courts throughout the State. That Statute provided that the judges of the Probate Court should Become a probate Court Assembly and an amendment ot the Statute a couple of years later required them to adopt uniform procedures in their respective courts. The next change is one which came about I think because of the fact that the public began to become a little bit disturbed about the differences in the fees that the different Probate Court judges were receiving in areas. In Hartford, I think as I say the fees were running something in excess of $150,000. In the Town of Hartland, for example, which has a population of 980 and its own Probate Court, the fees for the entire year might be less than $100 and the Probate Court judge might not raise his costs. And the matter came before the General Assembly, well one would suppose that the General Assembly would have faced the problem head-on and said we must put these courts into a State maintained system and put the Probate Court judges on salary, but that is not what they did. In 1947, the General Assembly in an effort to stop public criticizm of these large fees that the Probate Judges in the larger Probate districts were receieving, passed what you might call a graduated income tax. The General Assembly first provided that the Probate Court Assembly should have an executive secretary, and then they provided that the Probate Judge should each pay to that Probate Court Assembly each year a percentage of its gross receipts. The percentage varied from one dollar, one percent rather on the third one thousand dollars of fees, up to 78% of the fees in excess of $40,000. Now of course that does not fit with any idea of what the Probate Assembly would need to conduct their business. That Statute was passed so that to stop public criticism of the amount of the income of some of the judges of the larger Probate Courts were receiving. Then of course you have a situation where you would have a lot of money going to the Probate Assembly and of course that wouldn't do, so the next step was adopted in the Statutes and it provided that

Mr. McCormick continues: the Probate Court Assembly could keep only $5,000 of the amount that it had received during previous years and then should turn over all the balance to the towns comprising the district, thus completeing the ring around the rosey. Those, I say again, are the only changes in the Statutes in respect to the operation of the Probate Court in 300 years despite the terrific changes which have occurred in the situation in which those courts are operating., Now our committee, doesn't start with the position that the Probate Courts are bad as a matter of fact, many of the Pobate Judges have done a remarkably good job. We do say that the time has come when the old system is no longer workable and I think that I only need say one or two things to make that perfectly clear. In the first place, how much longer is the State of Connecticut going to permit the Probate Courts to operate on what I will call a concession basis? The same basis upon which you permit someone to sell hot-dogs at the ball park. You permit him to do it, he keeps the fees he charges, then pays his expenses, and what's left over belongs to him. Now the situation becomes acute when the Judge of a Probate court becomes unable to carry on his work, perhaps he's ill, perhaps for one reason or other he's unable to do his work. Under those circumstances you have to bring in a Probate Judge from another district to sit in his court, but how in the world can you authorize the judge of that other district to dispense the money of the Judge in whose district he is sitting. I have never been able to understand that. And secondly, it seems to me that where you have employees or a staff in the larger Probate Courts who have been there for many, many years, and the time comes for an employee in that court to retire that employee ought to have a pension equal to any that an employee of a State court would receive. But, how can you divide that one judge, who perhaps has died and is non longer able to operate his court, how can you provide that he pay attention to an employee who retired during the encumbrancy of the subsequent judge? It seems to me that we had one illustration in this particular General Assembly where a bill has been filed which provides in effect that the pension shall be made by the exceeding judge. It seems to me that in reviewing the history of the Probate Court you see the time has come where it is no longer possible to operate it under a system which we admirably adapted then. Now I could go through the history of the Municipal court system in much the same way, or the trial justice court and show how those courts too grew much like Topsy, and the time has finally come when the system is no longer capable of being operated. I think perhaps the less we say about the Municipal Court system at the moment, the better. As the members of this committee know very well, under our present system we have to have the General Assembly appoint some 200 judges on the nomination by the Governor at each session of the General Assembly. I think the members of this committee know how long it is since it was possible to appoint the judges in that manner. When you take

Mr. McCormick continues: 200 judgeships and put them in one package and try to distribute that as political patronage at one session of the General Assembly, where you have maybe a Republican House and a Democratic Senate, you know that the situation will no longer work. As I said before, I think the less we say about the legal positions of some of the judges now sitting in our Municipal courts is the better. I just want to say one thing abou t the Family Court. The Family Court is different from the Probate and Trial Justice Court, because it does not have an historical background. The Family Court was created by the General Assembly. It did not grow like Topsy, it was created through a process of reasoning. I'm sorry, I didn't mean to say Family Court, I mean our present Juvenile Court, and has done a very excellent job and we advocate expanding that Juvenile Court into a Family Court. Now I have kept you too long, but I have adopted this approach because I think it demonstrates that how it happens that we have this need for change and improvement in our court structure and how it happens that this need has met with such a growing response before the public during the last 30 years and how it happens finally that the same need, the same processes of improvement are going on in practically all the states of the Country at the present time. Thank you very much.

Mr. Tilson: Mr. Chairman, we have one more very brief speaker; Stewart Bohan, of New Haven, representing the Junior Bar of the State Bar Association.

Chr. Scanlon: As I indicated before, we intend to break for lunch, but this being your last speaker, we'll hear him.

Mr. Stewart Bohan, Representing the Junion Bar of the State Bar Association: Mr. Chairman and members of the committee, I assure you that I won't belabor the points that have already been spoken about within the past hour or two. I am authorized to speak on behalf of the Junior Bar Section of the State Bar Association. This is an organization comprised of about 800 lwyers, 35 years of age or younger. The Executive Committee of the Junior Bar Section is comprised of 27 lawyers throughout the State, who have local unit groups or who are chairmen of state-wide committees. This Executive Committee, quite independent of the action taken by the council of the State Bar Association, has unanimously adopted this resolution:

Resolved that the Executive Committee of the Junior Bar Section of the State Bar Association of Connecticut should publicly go on record in favor of the enactment of a bill by the 1959 General Assembly which would provide for an integrated Judicial system incorporating all courts within the State and presided over by full time lawyer judges

Mr. Bohan continues: enjoying resonable tenure of office and adequate compensation. By way of explanation of the form of this resolution, I would simply say that we so wish to make it clear it does not imply because of its generality any lack of support of S. B. 793. The Executive committee felt that our position would be much more forcible if we couched the resolution in general terms, emphasizing the basic principles of court reorganization, that permits us to support any bill which recognizes these principles and will implement them. From that point of veiw we heartily endorse S. B. 793, which is known as the Bar Association Bill, to the extent that S. B. 491 goes to the extent that it does in following these principles, we also endorse that. In short, any bill which this committee may adopt or draft, which provides for at least three principles, 1. an integrated State maintainted court system at all levels.

2. full time lawyer judges in all courts, who are protected in office, by adequate salary and assurance of tenure.

3. elimination of over-lapping jurisdiction.

Any such bills will receive the enthusiastic endorsement of the Junior Bar Section.

Chr. Scanlon: We'll recess the hearing until 2:P.M. sharp. Anyone who would like to register for or against any of these bills, can do so without testifying here.

JUDICIARY AND GOVERNMENTAL FUNCTIONS

MONDAY FEBRUARY 9, 1959 - 2:P.M.

Senator John M. Scanlon
Representative Samuel S. Googel
Presiding

Chr. Scanlon: The hearing on these bills is reopened and the committee recognizes Mr. Prime.

H.B. No. 3873 (Committee) ESTABLISHING A MUNICIPAL COURT DIVISION OF THE COURT OF COMMON PLEAS.

Mr. Irving Prime, Colebrook: I was house chairman of the Interim Judiciary Committee, which presents H.B. 3873, and it is in that capacity that I am here before you to say a very few brief words in support of that bill. The Interim Judiciary Committee, during the last Interim studied very carefully and very thoroughly the whole subject of Court Reorganization. Several hearing were held on the various phases of the probelem and after a great deal of conception and very careful consideration, the committee came to these conclusions. In the first place the courts of the State should be integrated in the sense of there being a channel of responsibility and control. A great step in that direction was adopted by the 1957 Legislature when it passed the Administrative powers Act. Secondly, ultimately, courts must be staffed by full time, legally trained judges with tenure, assisted by qualified personnel. The Committee realized that there were a great many practical difficulties in accomplishing this all at once. Therefore, the bill that the Committee presents is the first step in that direction. This Bill as it was explained to you this morning by Senator Barnes, would eliminate the 66 Municipal Courts and transfr their functions to a Municipal Court division set up within the Court of Common Pleas. I won't go into the details of it, this would involve the appointments of some 25 Common Pleas judges to handle this division. It would substantially have the same jurisdiction as now the Municipal Courts have and one of the important features of this is that the bill provides that there be a final trial before the court with no trial de novo on an appeal. The appeal would be on matter of law to an Appelate Division of the Common Pleas Court. The Committee by far the great majority of the Committee, was strongly in favor of some sort of Court Reorganization and as I say, the practical way of doing this the Committee felt was by a piece meal approach. A little at a time, as the committee felt that that would be the best way to make progress. The second step in the reorganization of the courts,

Mr. Prime continues: which the committee favored, was the establishment of a Family Court. However, the committee did not present a bill to this Session of the Legislature, because the subject is very well covered by the two bills before you now; the Bar Association Bill, which sets up a separate Family Court and the Administration Bill S.B.492, which sets up a Family Court Division in the Superior Court. It would be foolish for the Interim Committee to submit a bill which would have duplicated one of these bills. The Committee feels very strongly that some sort of progress in the direction of court reorganization should be taken by this Session, and if I can be of any assistance to the Committee in working out a bill that would be acceptable to the Legislature, without too much opposition to it, I'd be very happy to sit down with your sub-committee. Thank you very much.

S.B. No. 793 (Sen. Barnes) AN ACT CONCERNING THE INTEGRATION OF THE COURTS OF THE STATE.

Attorney John J. Kenny, President, Hartford Chapter of Bar Association: I speak to you as a representative of the Executive Committee of our Association. We believe that there is very little difference bweteen the so-called Bar Bill and so-called Administration bill. We are in hardy accord with the principles enunciated in both bills. We believe those principles to be changing our so-called minor courts into a uniform and integral part of our State judicial system. We also believe in full time lawyer judges, and we believe in tenure for those judges. We urge your committee and those people who deliberate with you to forsake any pride of authorship and to combine these principles in to Legislature this session. With your indulgence, I would like to present to you, Judge Martin J. Mostyn, of the City of Hartford, who probably has more experience than any living man in our minor court system.

S.B. No. 491:

Judge Martin J. Mostyn: Mr. Chairman, Members of the Committee, I have been connected with the Hartford Police Court both as a prosecutor and as a judge. Twenty years ago, I served as a prosecutor, and believe me in the past 20 years there's been tremendous changes in this court. Formally, we had small small dockets. Today are dockets are very high. We have cases some days on a Monday where is nothing to have 125 cases. Other days anywhere's from 50-75 cases. They not only involve accused, but many witnesses and I'm firmly convinced that our lower courts touch more people than any other courts in the State. I appear here in favor of passage of the Administration Bill, because I feel that if justice is to be metered out it has to be done by legally trained people, and people who have had experience and understanding of these matters. I think you.

S. B. 793 and S. B. 491

Attorney Harold Yudkin, Derby: I am Co-chairman on the Committee of Legislation of the New Haven County Bar Association and I was the immediate predecessor of Mr. Tilson as Chairman of the State Bar Association committee on Legislation. Speaking for the New Haven Bar Association, we believe in court reform. We believe it should be done at this Session of the General Assembly. We believe that if it is not done at this Session of the General Assembly, it will probably never be done. We prescribe to wither bill. The so-called Administration Bill or to the so-called State Bar Association Bill, we believe that the so-called Administration Bill, is probably the better of the two bills. Now with respect to those bills, we humbly suggest

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Attorney Yudkin continues: to your committee that the State Bar Bill be used as a guide in order to determine those things that ought to go into the Administration Bill. Our committee is willing, as Representative Prime just stated his comittee is willing, to be of service to your committee in any way possible for drafting or redrafting of any bill that your committee might want to come up with. We say to you that there are a few things in a bill which we feel ought to be brought to your attention. If at all possible we feel that the present Court of Common Pleas and the present Superior Court could easily be made into one court. Why? At the present time they are occuppying the same court houses. At the same time, they have the best set of judges trained in the State of Connecticut. At the present time they could very easily be integrated one with the other. To do such an integrataion would mean very little insofar as our law is concerned. We must have and would have a most capable set of clerks available in the court house to run the business of that set of courts more expeditiously. We believe in that principle because the public of the State of Connecticut is entitled to speedy trials, and the public of the State of Connecticut cannot under our present system obtain speedy trials. The dockets of New Haven, Bridgeport and Hartford, are clogged and jammed and perhaps by joining two courts where ever a judge can be spared from the Court of Common Pleas, that judge can be used in the Superior Court. It would enable two sets of presently existing judges to work better one with the other. We firmly believe that the present Municipal Court system and the present Trial Justice and Justice of the Peace system is derilict, it is something which has grown up over a long period of time without being modernized. We feel that when the public comes into a courtroom to have a trial, they must expect to find justice in a manner in which when they leave the courtroom, they can be proud that Connecicut has metered out an impartial justice. And, we feel to see where a lawyer who represents the railroad on one day can at night fine truckers for over-loading when those truckers might be in competition with the railroad. Or people who have a job representing one set of clients in the day time can judge another set of clients at night because their position might be contrary to the position of their clients. We feel to see why in one set of courts the judge will have a strong position against people who have liquor on their breath and other set of courts judges will say that speeders should be fined excessively. There should be anequal justice through the state, where justice is transferred freely in the small courts as they are now in our larger courts. We fail to see where the people who go to court once or

Attorney Yudkin continues: twice in their lifetime cannot, but rather can come out of the average, ordinary trial justice court, or Justice of the Peace court, or some of our smaller city courts and feel that they have had good justice, so we hope that your committee will set up a circuit court or a court of Common Pleas, or call it what you will, which will supplant the trial justice and city courts. But, on that score, if you use the Administration's bill and you have a part A for your Court of Common Pleas and a part B, do not set a different wage scale. Don't set a different standard for two judges of the same court. If you are going to have judges of the Court of Common Please in the same court, pay them both the same standard, because they'll both be spending the same amount of time in their cases. Now we feel that you ought to be meticulously careful in your bill, that you do not take away any right of trial by jury which exists by the Constitution. We feel that in the State Bar Bill, there are certain places where trial by jury guaranteed by the Constitution has been taken away and that such a bill might prove itself unconstitutional in that respect if taken to the court and we urge you to watch that. With respect to the Family Court, we urge upon you this: If there is to be a Family Court, it should be in the Superior Court, now why do we say that? Because I think the worst punishment that your committee can visit upon any judge is to have that judge listen for more than 6 weeks at a time to marital discord. How can we take a good intelligent well trained lawyer, put him on a bench and have him listen day in and day out, week in and week out, month in and month out, here in and here out, to domestic discord. I think that by having the Family Court within the Superior Court, every six weeks the judges will take their turns in sitting in as judges of the Family Court, and thereby enable the judges not to be bogged down with hearing the samething at all times. Our committee takes this viewpoint with respect to the Probate Court. We don't care whether or not you give us reorganization of the Probate Courts at all. We feel that half a loaf or 3/4 of a loaf is better than no loaf at all. And, we would be very well satisfied if a reorganization bill came out which left to the voters of the State of Connecticut the determination of whethr or not they want to change the constitution with respect to the Probate Courts. We think that the Justice of the Peace Court should be done away with in its entirity. At the present time, Justices of the Peace can hear matters up to $250. We feel that the Justices of the Peace were given only the authority to take acknowledgement ondeeds and other formal documents and perhaps to perform civil weddings, but that would be enough authority for all of these people who are voted in in all of

the towns of the State of Connecticut

Attorney Yudkin continues: to your attention one more thing that we feel that you should consider when you reorganizae the courts, and that is that the power that you delegate to an administrative officer to run the integrated courts should be delegrated sparingly. When you delegate that power, put a limitation on the power to determine that that administrative officer will conduct the courts administratively. I feel that the time for court reogranization has come. I don't think there should be a political party in determining whether a person is for or against court reorganization. I think we should stand up as Connecticut citizens and say it's about time, let's speak out as citizens instead of individuls pro or against. I feel further that the mere fact that a man holds a small job as a trial justice or a Justice of the Peace or a Municipal Court judge, which might possibly be eliminated by such a court reorganization, should not mean that they should have to come to this General Assembly and speak to obstruct something which the mandate of the people has called for. Let's get speedy justice and good courts in this State.

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Margaret Driscoll, speaking for Connecticut CIO-AFL Council:

We want to register our support for the purpose and principle behind S. B. 793. We believe that there should be equal justice for all under the law, and we believe that in order to attain that kind of justice the best administration requires a uniform system of state-wide courts with full time professionally trained judges. And, we think the people of the State are entitled to this kind of administrational justice, whether they live in small towns or big towns. There should b e no discrimination against the residents of the small towns in the administration of justice. The Bill before you, S. B. 793, in attempting to eliminate the minor court system would be substituting a system whereby law would govern, rather than the person who happens to be the lawyer for the client involved. I was once a prosecutor in a City court for 2 years so I have had some personal experience with the Municipal court system and I think that the remarks of Judge Henschell are certainly apt and would be endorsed by almost anyone who has been in the system and as he says who is honest about it. There can be no question but what is the connection of the person who appears for clients, rather than the law in the case, which determines in many instances what kind of justice is metered out. As far as the replacement of our Juvenile Court and some of the

Mrs. Driscoll continues: jurisdiction of the Probate Court and some of the jurisdiction of the Superior Court, by a Family Court, I think the remarks of Mr. Barnes earlier should be recalled here inview ofthe remarks now of Mr. Yudkin. It is tedious I'm sure to listen to Domestic Relations problems, because I think that most lawyers will agree, there are no more difficult and no more unrewarding problems that a lwyer has to face than those of domestic relations cases. But it seems to me that the Bar Bill S. B. 793 attempts to meet this problem in a different way, by providing a different court, so that you develop experts in the handling of these problems. They're not handled as our divorce cases are now in short calendar and a run of the mill kind of procedure, which is really not equipped in the kind of problem to deal with it, any more than it was equipped to deal with Juvenile problems. We therefore had a Juvenile Court, a different kind of court, a court with a different procedure, a different method of handling of the problems before it, because it required a different kind of expert. The Bar Bill does present the opportunity for developing that expert and I think the Administration Bill does too, because it does set up a division in the superior Court, but with judges appointed as Family Court judges. I think those considerations ought to weigh in favor of maintaining a separate kind of system for handling the problems, particularly of the family. Finally, let me say that we think we or you ought to handle this problem not on a piece meal basis, but on an integrated complete basis, in the manner presented by S. B. 793. Because if you believe in the principle, that equal justice for all does require full time professional judges, it does require tenure, and it does require a uniformity under a state-wide, system of courts, then no court should be excepted and we should have a complete system. Thank you.

S. B. 793: and S.B. 492:

Senator Barringer: Mr. Chairman, I would like to speak this afternoon in favor of a Family Court as contained in the Bar Association bill or and in the the Administration Bill 492. My single greatest defeat during my stay here on Capitol Hill was that I was unable to have the 1957 Session of the Legislature bring forth and pass a Family Court Bill. Having tried every means to get such a bill through, when I held your position Mr. Chairman, I thought that as I am familiar with every argument thrown into the book against the Family Court, it might be useful for the aid of the 1959 Judiciary Committee to have some of those arguments hauled out pf the closet and given the breath of day. Now first, before the arguments, the basic grievance of a Family

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Senator Barringer continues: Court. If you are interested in the control of Juvenil e Delinquincy, if you are interested in the prevent of medicine in the field of criminal law, if you wish a better population in this State twenty years from now, you should be interested in the Family Court. From my experience before the Bar and from my experience as a public prosecutor, there is a correlation between broken homes and a disturbed child or a delinquent if you will. I don't know what you are going to do with the other courts at this session, but I will tell you that you will have less use for the Criminal courts in the future if you found a Family Court at this Session. Both bills bring all matters dealing with families and children into one court, which is a great step in and of itself. After that intitial step however, I would say that the Bar Bill provides for a Family Court, I am not so sure that the Administrative Bill does. The Honorable Searle Pinney, the distinguished Minority leader and I used to ride the Legislative Session car during the last Session from our wooded area of the State, and we had a considerable length of time to discuss this Family Court idea and he did a tremendous amount of research on similar courts in other States and I know his research will be at the disposal of your committee. But, we generally felt that a Family court should have a few basic ingredients:

1. Judges who devote their full time to this field and who are not rotated. Wherever you find these courts, that is the main and basic position.

2. Sufficient trained personnel in the modern fields of medicine, psychiatry, marraige conselling, etc., to do a thorough investigating job for family background.

3. An approach if you will to do everything possible to slow up and prevent if possible a break-up of a home, particularly where children are concerned.

Any court, though it may be called a Family Court, which does not have these three inditia is not a Family Court in the modern sense and ia a waste of the taxpayers' money. The Bar Bill Family Court, given dedicated judges has the necessary ingredients The Bar Bill judge can do no other work because he is in a limited court. S. B. 492 judges are judges of the Superior Court and it is not clear whether they would be rotated to other business. I think that that is the main objection that I have to the Administration bill, because if it is clear that those judges are appointed to serve as Family Court

Senator Barringer continues: then it is preferable, because of the enormous social importance of this work, as I said it would be preferable to have it apart from rather a part of the Superior Court. Now as to the arguments against the Family Court as I have defined them:

1. By the way it was neither party that defeated the Family Court idea the last time, but it was literally hundreds of persons who brushed up against you in the halls of the two floors, who expounded these arguments against the Family Court and who finally killed the idea and prevented us from getting it out. Many, many attorneys felt that we would be creating a social workers paradox, that the social worker would dominate the courts. Now that's nonsense. No judge worthy of his salt can be pushed around, but a judge should have the modern tools of progress in this field to use. In a very quiet way we have had such a court in existence in this State for a considerable time. The present Juvenile Court. They have in my opinion done a splendid job. I have been in close contact with them both as a defense attorney and as a prosecuting attorney over a long period of years and I can only tell you as an aside that anyone who thinks that he can push or dominate Judge Stanley Meade, in this world or in the next world is a patent idiot. He doesn't push. Now family stories and family difficulties last a long time, it is some times years before results are achieved. Lawyers are intolerant of not getting a black and white result for a client . But the State has an interest that these gray fields of family troubles get a little whiter even if it takes a few years. Modern progress in this field, demands all the help that can be obtained. This is not a criminal case of guilty or not guilty, this is just a corrective case with no easy termination. That is the social worker's argument which you will hear on nausium for the next weeks and the quicker you pass the bill you will minimumize the number of times that your ear is twisted upon it, I can assure you.

2. Lawyers in general object that in some way or other this will affect the destiny of their clients. And if you think that lawyers in general are not a strong public voice in this State, you will find out that also in the next few months or so. Let me first state that the only person who does try to slow up family problems are lawyers. And they have done a fine job . But, let me add that this is a bread and butter item and let me add that attorneys by bitter experience have learned that the customer is always right in that he pays the bill and if the lawyer tries too much to slow up a family break up, his competitot

Senator Barringer continues: ends up with a client. Therefore many lawyers end up with an admiration for certainty in this field. Results that can be predicted from the evidence at hand, thus they acquire opposition to the idea. So the certainty of a couple going to a Family Court will mean that every possible thing will be done to effectuate a reconcilliation, especially where there are children. Actually I believe down deep in evryone's heart concerned with this painful procedure will be a certain sense of relief, after the various sides have put in their case, a third party, the State will also have a responsibility to do what it could to mitigate to damage to be done. And the profit, a few more children having the stability of a whole home behind them.

3. Lastly, the problem that Brother Yudkin brought up: that the State would find it impossible to get qualified men and women to act as judges, that no judge can take in day in and day out the emotional strain of dealing with this sort of detail. That I think is nonsense. That is not and has not been the experience of dedicated judges in other States where these courts have worked in dealing with this field. That has not been the experience of doctors, priests and others who pick up the dirty linen of civilization. But the experience seems quite clear. It should be a full time job for dedicated men and women who will follow these situations over the years, not a distasteful interlude between other judicial pursuits. I'd like to point out to you, that if by any chance the Administration Bill goes through, and the Family Court becomes a part of the Superior Court, and the Juvenile duties are added to that Family Court, and that you then don't clearly provide for continuity of judges doing this work, that you may end up by viciating completely the supportive job that the Juvenile Court is already doing. This is a field that needs patience, that needs tolerance and needs a long tim looking at and the Juvenile Court has demonstrated that as Senator Barnes pointed out this morning, this is an enlargement into the balance of this painful field. But those three basic arguments that I Have tried to lay before you are the arguments that you will be pressed up against with in the Halls for the next several months until you make up your minds. I believe that on the long ter haul this State will be a lot better State if you put through the Family Court with the singlenes of purpose which you find in the Bar Association Bill and if you can take that singleness of purpose and put it in the Superior Court it will be a better bill, because you will avoid certain Constitutional objections. As my co-chairman of

Senator Barringer continues: 1957 pointed out, I, too would be glad to give this honorable committee any help that I can along with these lines. And while I may not have had the pleasure of bringing it out in 1957, I will have considerable pleasure if it comes out in '59. Thank you very much.

Senator Charles T. Alfano, 7th District: I would like to make just a few brief comments on this:

S. B. No. 491

S. B. No. 793

Sen. Alfano: For approximately six years I have served as Judge of the Town Court of Suffield. In that capacity I have had quite a bit of close contact as many people have appeared in the local Municipal courts. I am not going to go into all the criticizm of the minor court or the municipal court system. You've heard most of them today. I'd like to say very frankly like occur in substantially all of them. I concur with the remarks of my good friend Judge Hensdell. My reference to the present Municipal courts of today is that they are horse and buggy courts. They served their purpose 50-60 years ago but since then we have had urbanization of our communities, we have had industrial growth, where we are no longer the agricultural community of the United States. So let's modernize our courts. I can't help but to give two instances in which I as an attorney appeared in trial justice courts in this state. In both incidents I happened to have with me members of the Bar of another State. On one occasion I was out in Eastern Connecticut, I won't mention the name of the town, and I had a member of the Bar from New York State, who was a schoolmate of mine. I appeared there an an attorney on a motor vehicle violation case. First we spent one hour looking for the court. Then we finally find a farm house and the farmer who was administrating justice. Justice at that time was being administered over the kitchen table in the farm house. I learned that in that one evening that in any negotiation with the court at all I shouldn't contact the prosecuting grand juror, I shouldn't talk to the trial justice, I had to go to the State Police officer. He was the person who eventually persuaded or influenced the decision of the whole court. In other words, the State Police Officer in most of these trial justice courts is the prosecuting grand juror, he's the trial justice, he's the arresting officer. It was only through my efforts and my working on the State Police Officer that I was successful in getting what I thought was justice for my client. Another occasion in Hartford County

Sen. Alfano continues: I had a member of the Massachusetts Bar appear with me in a trial justice court. At that time even I was astounded that I was a member of the Bar in the beginning when I learned that the person administering trial justice was a barber. He had no legal experience and no background whatsoever. My colleagues from the other states in both instances thought that our whole municipal court system was shameful. They could not understand how a State like Connecticut, that has been so progressive in all these years, tolerates the conditions which have existed in our minor courts. One other criticizm I would like to bring out is the fact that our minor courts are often known as justice by profit. How frequently have I talked to many members of the municipal courts in the various towns to have them advise me that they have had pressure put on them by their Boards of Finance who have become quite irritated because the return of income from their court in that particular year has dropped off. And when a budget is set up every year in various towns throughout the State, it never fails that in that budget they're anticipating a certain amount of income from the court in order to operate the general fund of the town. So let's give to the people of the State of Connecticut professional and efficient administration of justice that they're all entitled to. Thank you.

Rep. Rodney J. McMahon, Berlin: I am speaking in favor of

H.B. No. 2572 (Rep. McMahon) THE REORGANIZATION OF THE JUDICIAL DEPARTMENT.

Rep. McMahon: My bill is briefly a pilot bill, the synthesis of all of the Administration Bill, the Bar Association Bill. Considering the courts of the State of New Jersey, the courts of the District of Columbia and several other places which have had the same problem on court reorganization. Without being conceited or bragging whatsoever, I think I should give my background a little bit. For the past several years, up until two years ago upon returning to Connecticut, which is my native state, I practiced law in the District of Columbia. There I worked very close with Chief Judge V. J. Laws, who died recently. Judge Laws was one of the finest exponents of court reorganization in the United States. One of his close friends was the late Judge Vanderbilt, who also did a herculean job in court reorganization in the State of New Jersey. I might say, this is the first time I can recall being nervous. My bill represents a study of two years of concentrated effort to bring about court reorganization in the State of Connecticut. The provisions which are included

Rep. McMahon continues: in the bill fully consider the various geographic factors involving Connecticut. They consider the work load that's being carried on by the present courts. I might say that it's a laughable situation when you see the work load of some specific courts, that is as carried out now in Connecticut. That demands investigation by a committee. Any reorganization should consider the status quo in the present court procedures as being carried out in this honorable State. The provisions of my bill are completely beyond political consideration. It's based upon objective analysis of court reorganization. There's positively no political consideration in this bill at all. If you review the various passages of this bill 2572, you'll find that it provides for a common sharing of facilities throughout the State on a local level. I might say that it provides for the abolishment of the JP court in the State of Connecticut, which I consider greatly against the interest of public policy in this State. I was amazed upon returning from Washington, after being down there for about ten years, and to come back and have a common experience with Senator Alfano regarding these JP courts as they exist in Connecticut. I had a Probate matter in one particular town. The will couldn't be found. The judge finally searched in his ice-box and produced the will for probate that afternoon. I asked him why he kept the wills in the ice-box, he said that was the only place that was safe from fire. I practice law in a town called Berlin, about ten miles away. When I returned there about three years ago from Washington, and went to the Town Court. The Town Court was held in a very obtruse place, way, away from the immediate vicinity of the central part of Berlin, where no one could ever find it. Today it's inadequately marked. It's certainly not desireable where its set up geographically or physically. I would like to make one point clear concerning my bill. It provides for local administration of the courts on the lower court level. I think that administration should remain on the community level. People who are given definite responsibilities on a local level are definitely capable of filling those responsibilities. However, it does provide for full-time judges and full time tenure for those judges. Court administrators can be well versed in their functions in the town of Berlin and other towns throughout the State and to have this administration on a centrallized basis and have it dispensed from Hartford or New Haven or Bridgeport or any of the other larger cities of this State would be directly against the community interest. My bill provides for complete integration of the Connecticut court system. It is not a piecemeal basis and it would eliminate much of the

Rep. McMahon continues: antiquity that is present in the Connecticut court organization today. I was very heartened to hear the remark of Senator Barringer, who spoke of his experience in regards to the Family Court Bill. I was one of the authors of the Court bill as it exists in the District of Columbia today. I am glad to report that it has now become the law of the District of Columbia. I was chairman of the Minority Committee. The same rebuff that he received in his position with this committee, I have been through that experience for the past decade. Because of my background with a degree in social group work, and a equivalent to a Masters in Psychology and also with a Law Degree, I was accussed of being one of these wishy-washy psychologically-minded people, who is primarily concerned with the welfare of people. Lawyers are jealous of their possessions. They will resent violently the establishment and change of a a Family Court in the State of Conecticuct. This position has to be overcome. The Family Court which I propose has exclusive jurisdiction over matters of divorce, annulment, separations, adoptions, guardianship, non-support, abandonment and all matters thus related. The functions of the present Juvenile Court would be carried over in the Family Court as established under Connecticut law. The Constitutional questions of whether or not the Family Court should and could be established, we could well make it an appendage, a separate function under the Superior Court if necessary. That's only minor consideration. MY bill does not consider the legality of the various changes that would have to take place. it's main purpose is to present a broad view point, the total concept of court reorganization. On the Court of Common Pleas level it provides for 16 judges to be appointed by the General Assembly on the nomination of the Governor to be appointed for a term of 8 years. These judges will receive a salary of $16,500. The Court of Common Pleas shall be divided into 16 Judicial districts. I might say that rather than review the specific provision of this bill at this time, I was at a meeting this morning of the General Law committee and my notes somehow disappeared from the table, so I don't have those available at this time, but I would urge the committee to consider this bill 2572 as a basic concept of organization. It represents no vested interest of any Bar Association, of any political consideration whatsoever. It represents pure thinking on the part of a person who spent hours studying this specific problem. It represents a citizen of this State who has studied the problem geographically in regard to work loads of various communities. I think it has much merit to it. I think it represents

Rep. McMahon continues: what this State needs. I think in this Session of the Legislature if we don't come through with a court reorganizatin program, our mandate from the people will be lost. I personally want to stress upon this committee that I am available at any time, five nights a week to consider court reorganization. Anything I can do to further that. I want to help. Thank you very much.

S.B. No. 492

Alfred M. Bingham, Judge, Salem: I am a member of the Bar of New London County. I am a Probate Judge of the Probate District of Salem. I am Prosecuting Grand Juror in the court of Salem. I'm chairman of the Legal Aid Committee of New London County Bar Association, and I'm a former member of the Connecticut State Senate from the 20th District. I am appearing here today, primarily in support of the Family Court. I happen to be also in favor of the more general reorgzinaion proposals both of the Bar Association and the Administration. I feel that reform of our antiquated court system, whether piece-meal or all at once is long over due and I am here today to speak on behalf of the Family Court idea, which I believe would be of greater benefit to the State than any other element. Any practicing lawyer becomes aware of the pain and suffereing involved in domestic quarrels. Divorce is not a real solution, it's only a legal recognition that a family has broken up. If there are no children, little harm is done by the divorce. But, if there are children the harm may well be irrevocable. Juvenile Delinquincy only too often originates in a broken home. My experience as an officer in the Legal Aid Committee, has made me feel more than most of myfellow lawyers how much misery there is and how much social cost there is in the domestic quarrels and that they can only be lessened by adopting a new approach, a new kind of court, a Family Court, such as has been proposed in several bills before this Assembly. The best arguments for a family court that I have seen came out in an issue of the Connecticut Bar Journal two or three years ago, in particular an article by Former Chief Justoce Maltsbie. I would urge the committee to study this. The Family Court as pointed out in a remark here is an extension of the Juvenile Court. It has the capacity and appendages and methods that we have become familiar with in the Juvenile Court, but it would be given power to deal with all family problems, and particularly with those concerned with divorce, separation and support. Members of the Committee I would like particularly to point out

Judge Bingham: continues

to you what seems to me the basic principle features of the Juvenile Court that make it a model for an expanded Family Court. First of all, and most important, is that people before the Juvenile Court, and more people I would hope before the Family Court are not really being adversary in which one party is trying to prove another party is wrong or that he's guilty. The procedure is that of dealing with people who are in trouble, trying to help them. In the Juvenile Court children are in trouble because of their bad behavior or because of the neglect of their parents. In a Family Court, it's set up to deal with family quarrels generally, and the breaking up of the family unit. It's the whole family that's in trouble. A divorce may be the only solution. The court won't grant it until all other solutions have been explored. The court will be set up to prevent or mend a broken home, rather than merely to recognize the breach and brand one partner as being in the wrong or being guilty. So the first advantage of the Juvenile Court is the attitute of the people who come before it. The next advantage which the Juvenile Court has and which the Family Court would have is that they would have a staff adequate to deal with the type of problems that come before it. The Juvenile Court of course has Probation officers, but the State depends heavily on the Welfare Department for their investigations and the help of social workers for the medical and psychiatric srvices they sometimes feel are necessary. However a family court has to have a staff of its own of those specialties isn't so important as is taken for granted as a matter ofcourse that evryone of these problems has a specialist investigating and advising. The people whose business it is and whose specialty it is to in these cases understand the problems, rather than simply their legal aspects, which is true of our present courts. It's true that the Superior Court may in divorce cases often call in their probation officers and they may even take advice from social agencies on matters like custody, but that's the exception and the Family Court ought to make it the rule. So the second great advantage of a Family Court taken from the Juvenile Court is that it uses the services of the experts and specialists in the field of Family relations to base its decision upon rather than merely thinking in terms of a law. Third and finally the Juvenile Court and therefore I would hope a Family Court would hold its hearings I hope in private and informally. And, this in itself would change the atmosphere and the impression of a family quarrel being a public contest where one party gets up to accuse the other of all sorts

Judge Bingham continues: of horrible things and the more horrible they can make it they are sure of getting the divorce. Here is a private conference in the Judge's chamber without the public being admitted and where there is a possibility of tolerance, of reconcilliation and a new start, and bringing in the experts that might be available. As far as the jurisdiction of the Family Court is concerned, I'm not particulatly concerned myself. I don't feel it is too important how much is included provided the essentials of family break up and divorce, separation and custody and matters of that kind are included. As a member of the Probate Assembly, and as a Probate Judge, I know the Probate Courts in particular are extremely concerned about the loss of any of their powers and peroggative, and I certainly dnn't feel that it is too important to have any of those elements of jurisdiction removed. I feel that the Probate courts are doing a reasonably adequate job and for the most part the smaller courts like my own court has very little to do with these elements that are supposed to be included in the Family Court like adoption and these committments don't even belong directly in consideration of the family problem,so that my own feeling would be to leave the Probate jurisdiction pretty much alone and less opposition will develop from the Probate Court. However I do feel that it's important for all of us to recognize the needs of Court Reform and recognize the upsetting problems of families today whether or not they have any selfish int erest in serving their own perroggative, it's incumbent upon us to get up and speak for a reform which this state and the people of this state thoroughly need. Thank you.

Chr. Googel: It would be appreciated at this time if most of you would try to keep your remarks as brief as possible. Try not to be repititious, because we haven't heard from those who are opposed and we would like to give everyone an opportunity to be heard without having to schedule another hearing. The Chair now recognizes the Representative from Avon, Mr. August.

Representative Robert B. August, Avon: Mr. Chairman, I have an outline of my comments so all I am going to give is an outline in any event. As a member in the last session of the sub-committee that tried to get through the Family Court, I can only say that I think its incumbent upon all of us to push forth and if necessary if the Republicans have to cooperate with a Democratic Governor, then I'm all for it. As to the minor courts, the elements there to me have been repeated many times this afternoon, we can only have good courts if we have competent personnel,

Rep. August continues: selected without political consideration. I am opposed to the Minor court provision of the Interim Committee bill because it doesn't do that. it leaves a great deal to be done as far as the Justice courts are concerned. I question the Bar Baill and Administration Bill as far as the minor courts are concerned because I believe that they have not adequately answered the questions at all. Now I would be criticized I am sure if I say that I am concerned about cost where justice is concerned. I believe though that justice can be obtained without cost which apparently appears to be in the background of these two bills, and I believe that the local court can be administered locally. I'm no supporter of the Justice Courts but I have one or two points here which I suggest for consideration by your committee and I will just state them by outlining them and then leaving the outline with you:

1. The Justice Courts and Justices of the Peace should be abolished as far as their elected aspect is concerned, and in the future appointments both in the Municipal courts and trial justice courts should be made by the judges of the Superior court upon the recommendation of the Bar Association. Their recommendation need not come from the same town in which the court sits. I believe that if judges are attorneys, then there are an ample number of attorneys throughout the state who are well qualified to act as judges in our local courts. The mere fact that they are attorneys leads them to take pride in the fact thatthey can act fairly. I believe that they could adequately administer our minor courts and slow down rather than increase the centralization and the conjection of all cases which will be going through the new Common Pleas division or the Superior court. I believe that Prosecutors should also be slected by the same method to get them away from political situations as much as possible. I believe also that the procedures in the minor courts could well be enlarged upon and made much more uniform under the present powers of the Chief Justice of the Supreme Court in accordance with the Administrative procedural act passed in the last session. I am well convinced that this proposal has some merit to it while overcoming the objections to the integrated systems which have been proposed and also overcoming the objections that we presently have and are in dire need of change. Thank you.

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Mrs. Abraham A. Lubchansky+ League of Women Voters of Connecticut:

I wish to speak in favor of

S.B. No. 793:

For over thirty years, the League has been concerned with various aspects of Connecticut's judicial system. For the last four years, we have studied Connecticut's present judicial set-up and all the proposals for its reorganization. We have concluded that certain standards - certain basic aims are common to any good judicial system, namely:

1. Full time judges.
2. Legally trained judges.
3. Judicial Tenure.
4. Uniformity of procedure.
5. Prompt adminisrtation of justice.
6. Elimination of overlapping jurisdiction.
7. Flexible use of judges, court personnel and facilities through a system of central administration.
8. Abolition of the fee system.

The League of Women Voters support S. B. 793 as meeting these standards for a state-integrated court system. We believe that this sound and forward looking plan drafted by recognized and objective experts in this field will provide a a court system designed for our times with justice equally and impartially available to all citizens of this state. We respectfully urge your serious consideration of this bill and a favorable report from this committee. Thank you.

Attorney Morgan P. Ames, Treasurer of State Bar Association: I speak as an individual. I think we all recognize that Court Reform is urgently needed to deal with what I consider the most pressing problem that we have at the present time in connection with the administration of justice, and that is the timliness of the administration of justice. We all know that Justice Delayed is Justice Denyed, and measured by that test, the administration of justice in our Stat we must recognize has, since World War II broken down. There are now some 40,000 cases pending in the Superior Court and the Court of Common Pleas of our State. We have to face with shame I believe the fact that of the 6 courts in this entire country that are the most delayed in their administration of justice, we have two in this State

Attorney Ames continues: and of the twelve in this country, we have three in this State where justice is most delayed. That is the Superior Court sitting in Fairfield County, Hartford County and New Haven County. These are literally three of the twelve courts in this Country where according to the Institute of Judicial Administration, Inc., in New York City, justice is most delayed. At the present time in Fairfield County it takes about 36 months to reach a trial by jury and in Hartford Country Superior Court it takes about 28 months. Now imagine the devastating effect in human terms of the expense, the anxiety, the continuation of animosities. The family circumstances, the lack of confidence in our courts that these intolerable delays are causing among our citizens. If we were catching up there would be some ground for home, but in fact we are falling farther and farther behind all the time. Cases are coming in faster than our courts can dispose of them. Back in 1954, Chief Justice English writing in the Connecticut Bar Journal said that the situation was critical and that something had to be done. Chief Justice Wynn said the same thing the following year. Actually as a practical matter nothing has been done alleviate this increasing congestion of the trial courts, especially on the jury side of the Superior Court in those three most popular counties, and if we consdier that on each side of a litigation there are at least one plaintiff and at least one defendant, and that each one of them has a wife and three or four children, who are dependent perhaps upon the litigants, we come up with a figure of 3-4,000 people who are being personally and directly adversely affected by these lengthy delays in the administration of justice. It is obvious therefore that something must be done promptly and effectively to deal with this all important problem of the delay in the administration of justice which is a factor I think which no prior speaker has addressed himself to. Now actually as I say, the delay is increasing and will increase more and more because this year the U. S. Congress has decreased the jurisdiction of the U. S. District Court to deal with litigations and those litigations inevitably will be thrown over into our Superior Court. The Federal Court in this State in New Haven and Hartford is now roughly two or sometimes three years behind also in the disposition of litigation and as those cases are transferred or turned away into our State courts, our delays are going to go from 36 months in Fairfield County at the present time to well what would you say four years or more. The situation in Fairfield Country where I come from is a very critical situation as well as

Attorney Ames continues: in Hartford County or New Haven County, and perhaps a lot of your audience from Tolland, Litchfield and New London, where the dockets are relatively up to date, are not really familiar with the problems we are facing. One critical factor which is needed in any court reorganization bill which might be passed is an increase in the number of judges, who are going to handle the business of the courts, the increasing business of the courts. And those judges are going to need perhaps other court personnel, such as Law Clerks, Stenographers. I believe that at the' present time that a Justice of the Supreme Court of Errors of Connecticut who has to decide a case has to go to the library to pull down a book for himself and if he wantsto dictate an opinion he has to write it out in long hand, and if he wants to write a letter, he has to write it out in long hand and wait sometimes for days, weeks or more in order to catch a stenographer some place to type up his letters, to type up the opinions which he writes, which sets the law of the entire State. The same is true in our Superior Court and the Court of Common Pleas. Our judges do not have the time to do the legal research which is required in deciding cases coming before them. If we had some Law Clerks in our court houses the time of our judges could be put to much more effective use than as what is being made of their time at the present as doing routine tasks of setting down legal authorities, checking up on cases cited by the lawyers who come into the courts, doing what is really work of a routine legal clerical nature. At the present time we have five judges of the Supreme Court of Errors, twenty-to in the Superior Court, twelve in the Court of Common Pleas, making a total of 39. Just as stated, in S. B. 793, which I support provision is made in Sec. 14 for five judges in the Supreme Court and 30 judges in Suprior Court. That would be 35 judges, or four less than we have at the present time. Now it is true of course that some of the judges of the Superior Court and the Court of Common Pleas judges would be taken away and turned over to the Family Court, and the Court of Common Pleas judges would not have to deal with appeals from the municipal courts. So that perhaps roughly 35 judges under the proposed reorganized set up would be the equivalent of the 39 at the present time. But, as I have said, we are 40,000 cases behind at the present time and we are falling further and further behind every single day that passes as hundred and hundreds of new cases are brought into the courts. So that it seems fair to me that the Legislature in organizing the court set up must bear that in mind. Sec. 14 of S.B.793

Attorney Ames continues: which provides that the number of judges of Superior Court should be increased from 30 to 40, whenevr the Chief Judge of the Supreme Court of Errors upon consultation with the presiding judge of the Superior Court, and with the Executive Secretary of the Judicial Department shall certify to the Governor that the business before the Superior Court requres the naming of additional judges. It seems all too clear to me at the present time that the business of the Superior Court does require the naming of additional judges to grapple with this increased mass of litigation that is being brought in before them, so I would respectfully urge that not only should S.B. 793 be passed but that that provision about 30 judges with an extra ten at some possible time in the future be amended so that we start off at the very beginning with the 40 judges of the Superior Court, who are needed, together with additional help by way of law clerks, stenographers, etc., to grapple with the 40,000 cases which are still pending undisposed of today, which at the current rate would take two or three years to dispose of even if no new cases were started, to deal with those 40,000 cases and the hundreds and hundreds of new cases that are being brought before them every day and every week. Thank you.

Chr. Scanlon: I recognize that man in the corner.

Attorney Theodore Koskoff, Stratford: I am the Chairman of the State Bar Association Committee on Civil Justice. The previous speaker, Morgan Ames, I think has touched on perhaps the most important part of the discussion. I believe that the philosphy behind both of thebills, both the State Bar Bill and the Administration Bill, has been fully explored, but I think there are a couple of bread and butter aspects to the proposed legislation which it is important to refer to. Mr. Ames has brought out the question of the number of judges, I would like to echo the arguments which he made, butIjust want to say this in connection with that argument. Our judges presently, the present complement of Superior Court judges are over worked, and are under paid. I have spent the greater part of my adult life trying cases in the courts of this State. I know of nogroup of public servants that works harder, more diligently, and longer hours, than do the judges of the State of Connecticut. Superior Court judges in particular. The Legislature has seen fit to assign to them over the past three or four sessions new duties,

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Attorney Koskoff continues: such as of an adminisrtative nature, such as sentence review, and many other tasks. In addition the Legislature has seen fit to order the Superior Court to sit in various communities, I'm sure to the satisfaction to the Gentlemen of the Legislature who come from those communities. It seems to me somewhat ridiculaous to say to the Superior Court of the State of Conecticut, you are obliged to sit in Ansonia, you are obliged to sit in Rockland, when the great, great bulk of litigation that exists, the great back-log of litigation about which Mr. Ames spoke, sits in the large counties where the bulk of this type of work goes. Yet the Superior Court is always on the mandate of the Legislature not to sit with its present complement of judges. The Legislature is going to tell the Superior Court where to sit, it at least ought to provide the court with sufficient judges to man the jobs that the Legislature places upon them to do. I would believe that the people who are best able to determine where the courts should sit and the people who are directly connected with the business of the court, and I speak of the judges themselves. I therefore urge you and I notice that this only appears in the bills in connection with the Court of Common Pleas, the proposed newly established Court of Common Pleas. I urge you that you permit the Supreme Court or the Superior Court to determine where and when it shall sit inorder that the manpower it has been allocated can be used to better advantage. That does not appear in either of the two bills mentioned. In using a realistic approach to the problem, I would like to say further, should the Legislature in its infinite wisdom decide not to incorporate the Probate Court changes so proposed in the State Bar Bill, I urge that you write in to the Legislation which you do pass some provision for the establishment of motions for disclosure and for rules of procedure in the Probate Courts themselves, so that at least a litigant can come in, know where he is going and avail himself of the proposed rulles of civil procedure with which we all who practice are familiar. I have two other suggestions to make in connection with this. I urge that is you adopt the so-called Administration Bill that you take from the State Bar Bill, Section 13 having to do with the rule making power. I've spent the last ten years on the State Bar Committee as a member and the last four years as Chairman of the Committee relating to the establishment of rules of procedure and it is my feeling for two basic reasons that the rules in S. B. 793, Section 13 handles the job considerable better

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Attorney Koskoff continues: than does the Administration Rule, Section 10 under the Administration Bill. You will note that in Section 13 of the Bar Bill, there are two safe guards and I believe that one of these safe guards was the law prior to the writing of these present bills, that is in the 1955 Session of the Legislature, which initially gave to the Superior Court the rule making power. In Section 13 of the State Bar Bill, it contains a statement that:

> Said rule shall neither abridge, enlarge nor modify the substance of rights of any litigants.

That does not appear in the Administration Bill. I think it's important, I think it ought to appear in the Administration Bill, or ought to be incorporated into it. THe other provision that I propose that you incorporate into the Administration Bill has to do with the fact of the holding of public hearings in relation to the establishment of rules of procedures. You will note that Paragraph B of Section 13 of the State Bar Bill provides for these public hearings. The third safeguard has to do with the fact that in those instants where rules abridge or abate existing legilslation, that those rules must be reported to the Legislature in the following session of the Legislature. I believe that is a safeguard that should be written into the bill. You will note that these are all in the Bar Bill and do not appear in the Administration Bill. I urge also that, and those of you members of the committee, and I know there are many of you who practice law in the courts, that there exists another provision which should be written into this Bill as one of the provisions. It has to do with those cases which are litigated in the Court of Common Pleas or the Superior Court involving a Minor or an Estate. Should you not do anything about the incorporation of the general picture of the Probate Court, I suggest then that you write into the Legislation a provision which would permit a case which is started in the Superior Court or the Court of Common Pleas which is subsequently settled to permit the judge of that court to enter an order approving the settlement so that it beceomes unnecessary to go through the fiction of going back to the Probate Court for an approval of the settlement. Certainly the judge who has tried the case, listed to the evidence, is familiar with the attitudes of both counsels, and is in a far better position to determine whether a settlement is reasonable or understandably unreasonable than is a Probate Judge who all he sees and gets the

Attorney Koskoff continues: opportunity to see is the application made on behalf of the minor or behalf of the Estate. This would eliminate a duplication of work which presently exists. There is one other thing which I am sure will not be met with a great deal of happiness on the part of the plaintiff's counsel most of the time, and I am going to identify myself by the fact that I represent only plaintiffs. But I would like to say this, that one of the reasons for the clogging of the dockets is the fact that litigation is commenced in the wrong court. Should the Aministration Bill be adopted, I suggest that a provision be written into the bill, which would premit a Judge of the Superior Court to order a case transferred to the Common Pleas Court when in his opinion the case lies within the minimum, rather the maximum jurisdiction of the Common Pleas Court. However, in doing this I would urge that you consider leaving it in its present state, that is even if the judge orders this case to be transferred to the Common Pleas Court, that for the purposes of that litigation the oddendum remain whatever the lawyer who drew that writ in the first place so that the rights of the Plaintiff will not be infringed upon. In that way, a considerable body of minor legislation, which presently exists in the Superior Court could be transferred to the Court of Common Pleas without any significant change in the rights of the party.

Chr. Scanlon: Before we finish with more proponents, I would like once more to ask that if you are going to speak on a subject that has already been touched upon, I would prefer that you register. I am told now that it is starting to snow out and there are a good many opponents here who would like to be heard and have a long way to travel to get home, so if you will be brief and please not repititious, we'll go forward a little longer with the proponents.

Attorney Max Schwartz, Woodbridge: I am the Chairman of the Family Law Committee of the State Bar Association. Before you made your remark Mr. Chairman, I was going to mention the fact that you people have been subjected to a considerable amount of haranguing in behalf of these bills. I merely want to say that the Family Law Committee of the State Bar Association strongly endorses the State Bar Association Bill and especially the Family Law Court provisions of the bill, and we hope that your committee will see fit to come out of committee with a strong reorganization bill,

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Attorney Schwartz continues: incorporating a Family Law Court. Thank you.

John F. Curran, New Haven: I oppose Bills 492, 491, 793 and 2572. I haven't had a chance to look at 3873 because I just received a copy today. I hadn't heard of it before.

Chr. Scanlon: We are now hearing proponents only.

Mr. Curran: I'm sorry Sir, I'm speaking against these bills.

Chr. Scanlon: Mrs. Ryan.

Mrs. Ryan, representing Greater Hartford Community Council: I have been asked to speak in support of

S. B. No. 793

I think this bill most satisfactorily meets the standards of the Community Council and we feel this is desireable of a Family Court Bill. We believe that the Family Court should be a court with a wide jurisdiction over all types of family problems, including questions over custody and support of children, divorce and all non-support matters. It is important that the bill enacted should require investigations in all matrimonial cases involving children under 16, inorder to determine custody and support of these children. So far as I have been able to discover, S. B. 793 or the Bar Bill is the only bill which includes this provision. It is important also that there should be centrallized in a Family Court, all enforcement of support, whether it be the child of divorced parents, or a family not broken by divorce, or if the father is outside the State or in the State. We know that you are aware that family matters are scattered among the different courts in Connecticut, because they just happened to grwo that way. So no one sat down and planned it up until this point. Modern social theories recognize that any family matter can best be handled by looking at the family as a whole. With the present court structure this cannot be done. We urge your support for a Family Court because it represents a means of keeping the courts abreast of modern social means, as well as the legal means and needs of the family. We blieve in establishing a Family Court as part of the well thought out integrated court system would greatly strengthen the services provided by a Family Court. I would

Mrs. Ryan continues: like to make just a couple of personal remarks in addition to this statement in support of statements made by Senator Barringer. I personally feel that there should be no conflict between social workers and lawyers in the courts. They should have a common purpose as set forth in case law and in the professional publications of social workers, and that is to promote the best interests of children. Both of these professions want, or should want all pertinent facts and evidence for a decision on custody. I believe with Senator Barringer that the vast administration of a Family Court can be handled if the judges specialize in that field. I recognize that all judges don't look upon this as a desireable sort of practice. Those judges who are concerned with purely intellectual exercises will not get satisfaction from a Family Court. Judges, however who have a interest in human values will gain a great deal of satisfaction from sitting in Family Courts, I believe, which is not possible at the present time, because there are so many disturbing questions raised in divorce actions that cannot properly be settled under the present situation. One of the reasons I think it's important for the court to investigate in all custody matters is now the litigants on both sides are represented by counsel. Children are very often not represented by anyone. It's very often an emotional situation when a divorce is being sought and the tendency of even fairly good parents is sometimes to use the children as a tool or weapon in their fight against the other person. I think that investigation by a mutual objective court officer offers to these children the best possible protection.

Charles Parker, representing the Greater New Haven Council of Social Agencies: I just want to go on record in favor of the State Bar Bill.

Attorney Ralph DuPont, New London: I am making a statement on behalf of myself and my wife, who is also present and who is also an attorney, Antoinette DuPont. I do not wish to speak extensively on the measures in the Court reorganization bills introduced by the Bar Association and the Administration, insofar as these bills concern matters in the minor courts. I heartily

Attorney Du Pont continues: both measures, I believe that the Bar Association measure is to be preferred for I think it considers more carefully with a greater degree of specification the problems of our minor courts and the reorganization of our courts. I am most interested however in the Probate Court. My practice since my admission to the Bar of both New York and Connecticut has been largely concerned with the administration of descedent's estates. I think on my first meeting with the Connecticut Probate Court I was shocked to find that inadequate procedures, inadequate notice prevailed in these courts. It may be the proper steps to correct these difficulties lie in the enactment of a uniform Probate Court. One would suppose therefore that such measures would originate in the Probate Assembly, one does find however stagnation in the Probate Law in the State of Connecticut. One finds that these courts are unsatsifactory tribunals for the administration of justice . When I say they are unsatisfactory I refer you Mr. Chairman to the fact that appraisers appointed by the Probate Court are not accepted or accessible to the Federal Revenue Agent. Moreover procedures for rendering final accounting in the State are often less than adequate. Accounts are submitted to these courts which are balance sheets on their face only. They
a are not examined by the court, they are merely accepted as they appear to be. There is no requirement for the trustee bank for example to show capital appreciation or paper losses during the course of administration of the estate. These gains and losses can often be of greater significance by far than mere problems of defaultation. One could go on Mr. Chairman to cite numbrable examples of laxness in the preparation of inventories and the filing of Income Tax returns, all at great expense to this State in loss revenues. If this is so, it is so, because we are operating under a system staffed by part-time elected officials, any number of whom have no legal training. May I assure you members of this committee, that is it no boom to an estate to be accorded a quick hearing before an incompetent tribunal, whose verdict is entitled to no cradence in this State or any other, but whose every act is subject to new hearings de novo in the Superior Court. Such procedings are wasteful, time- consuming and should be discontinued. It is within the power of our Legislature to accomplish the needed changes. And it is only with this feature of that measure that I have substantial disagree-

Attorney DuPont continues: ment. The Bar Association proposal offers to make the change, but it does so in a fashion which I submit to you Ladies and Gentlemen, is not wholly acceptable either. The critics of the Bar Associationhave evidentally caused it to give some measure of attention to those who prefer justice administered from the back room of an insurance office. The Bar Association which creates Surrogates and clerks who would be entitled to adjudicate certain matters. I urge you Ladies and Gentlemen to take the necessary steps to amend the Constitution if need be to remove therefrom the election of Probate Judges. I urge you to destroy with all possible defeat the curious anamalie that is the assembly of all Probate Judges with its paid political representatives. Upon mature analysis, what is the Probate Court? It is as you have been told today, a collection of persons licensed by the State doing business for fees on a concession basis. This is not the definition of a Probate Justice Court. In our Probate Courts as accepted it is not permissable to waive fees for friends, double them for strangers. How come our judges are no engaged in the preparation of papers for persons who appear before their court, including applications from Probate, inventories, such as income tax returns and the like, but yet this is often cited as reasons why this court should be allowed to continue. This act or acts are in of themselves violations of the canon Judicial acts. I would however take the Probate Assembly at its word. I would suprisingly enough urge you to continue a Probate Assembly and the Probate Court but I would urge you one minor exception, and in this I think I offer you something which has not been touched upon. I would urge you to use your powers, also the jurisdiction of the Probate Court so that it is possible for an executor or an administrator, charged with the administration of an estate in excess of say $25,000 to remove thatestate, all procedures relating thereto, to a division of the Superior Court, whereupon a full probate administration may be had in due course. To be truthful, if the

Attorney DuPont continues: people of this State truly approve the Probate Courts as they now stand, we would be doing nothing to harm them. We would have had a brief experiment which we could subsequently right. But if the Probate Courts be little used by large estates, and attorneys having critical problems in the administration of those estates, would transfer such matters to a division of the Superior Court, then I believe in due course of time, you would find the Probate courts and its assembly of judges being a useful system. It seems to me that such a change in jurisdiction is not free from doubts as to constitutionality, and of course I would urge your committee to study closely the constitutional aspects as such a plan. I assure you however that you do have the power to enlarge or detract jurisdiction from the Probate Court, and I would urge you to consider seriously this question of a change of jurisdiction to permit the removal of certain large and involved estates from the Probate Courts, leaving in thier hands the minor matters that are not greatly affected by part-time personnel. Thank you.

Chr. Scanlon: The question is whether or not we will have to have another hearing, or whether the opponents can be fully heard or whether they would prefer that we go right through today. If we cannot give the opponents enough time today, we certainly will be glad to hear them fully at another date. We have no choice now but to go forward with the remaining proponents and ask them to speak as briefly as possible.

Attorney Victor Dowling, Hartford: I speak for myself as an individual. I should like first to preface my brief remarks by stating that I am unequivacably in favor of court reorgan ization embodying the principle of legally-trained judges and prosecutors in all courts of the State. There are however two points that I should like to submit to this committee for consideration prior to the adapting of the final bill. The first concerns that of the elimination in the Bar Bar bill of trial de novo in criminal cases

Attorney Dowling continues: Several of our leading jurists and practicing attorneys have at one time and another expressed the views similar to that of Lord Justice Matthews, the leading jurist of England, who when addressing a recent American Bar Association meeting stated as follows:-

"When I was a young man practicing at the Bar, I lost a great many cases I should have won, as I got along, I won a great many cases I ought to have lost. So on the whole justice was done."

The question is justice to whom. The attorney asks but what of the client? I believe the tenure of American philosophy still is that it is better for many guilty persons to go free than to have one innocent person unjustly incacerated. I submit that in the abscence of a workable mandatory internship for newly admitted members of the Bar in Connecticut, the trial de novo in criminal cases is a tremendous safeguard to the rights of the accused. The cost and alleged waste of time in the system embodying trial de novo in criminal action has here today been pointed out as most undesireable. I submit that the record of less than 5% of appeals from the lower courts speak for itself. That abscence of juries from the newly proposed lower courts together with an option of a trial de novo or an appeal by way of review of errors would in fact speed up the real justice providing greater justice for the accused. In short, that any additional financial and time consuming costs is a small price to pay for the additional protection afforded an accused in trial de novo in criminal action.

The second point I wish to make is this Connecticut today enjoys one the most highly esteemed State courts in the nation. I submit that this is due to the screening process inherent in our present court system. An opportunity to observe the ability and equally important the judicial demeanor of the lower court judges provides an already proven reservoir of judicial talen from the point of the State courts.

Attorney Dowling continues: I further suggest that this present reservoir of proven judicial talent in the natural course of events will in time be exhausted and in that connection I would suggest a system that would maintain this reservoir, that a percentage of the judgeships in a proposed division be of the Court of Common Pleas appointed to a single term of to one or two years without tenure. This would serve a dual purpose:

1. An opportunity to determine natural service the judicial ability of the appointee

2. An opportunity for the apointee to determine in his own mind his adaptability to the exacting requirements of the bench.

The result would be to maintain a reservoir of proven judges for appointment to office with tenure. Eight years is a long time to regret a mistake and a correction of an error of eight years standing is the most difficult one to make where a human being's reputation and future is at stake. Thank you.

Chr. Scanlon: If anyone else has a written statement we would appreciate it if they would file it with the Clerk.

Harold Bailey, West Hartford: I am speaking only for myself. Now obviously the Superior Court as the Common Pleas Court should have all the added legislation that they need for the purpose of the expeditious conduct and the decision of the cases before them. I'm all for that. I'm entirely satisfied to have a Family Court established. My opposition is purely personal to the rest of the bill. I don't have any position in connection with any court, I'm not a lawyer, I'm not a politician, but I want you Gentlemen to consider this particular aspect of the rest of the bill. When you take the powers from the Town over the minor courts either civil or probate, you are doing a revolutionary thing. It is a

Mr. Bailey continues: tremendous departure. It is in line with the other bills of this Assembly, all tending towards centralization of power. Now this State was not set up on any such basis. It was set up on the basis of local self-determination, local self-government, and local handling of offenses as well as local handling of probate matters. If a Probate Judge makes a mistake, it can be corrected by trial de novo in Superior Court. But the Probate Judge is largely a ministerial officer. He is concerned...

Chr. Googel: May I interrupt for just a moment. Are you talking fpr or against these proposals?

Mr. Bailey: It's both Your Honor.

CHr. Googel: I wish you would talk for now and then when the opposition gets their turn, you can talk again.

Mr. Bailey: May I conclude and then that will dispose of me. Their office is largely ministerial. If anybody is dissatified, they can take an appeal. If we centrallize this power, then America is going to be a different sort of place than it has been, and I think that would be a departure from the tradition, which has much merit. Thank you.

Chr. Scanlon: This Gentlemen here.

John Timco, 244 Park Street, Bridgeport: Mr. Chairman and members of this Judiciary Committee, Ladies and Gentlemen: Two years ago I was to a public hearing on Court Reform. I appealed to the Judiciary Committee for legal aid and a fair and full hearing concerning a civil suit. I did not get their help, but I thank them just the same. Today I would like to hear and ask this committee how could a court reform bill help to guarantee justice to any victim of delayed denial of justice or dessertion in our courts by any lawyer, hired to protect your interest and the professional ethics brush-off by any other lawyers. Are they not the officers of a court? and why should a person have to go to another State to hire a lawyer at extra expense to

Mr. Timco continues: get justice in Connecticut? The Federal and state constitutions guarantee equal protection under the law. It is a sad day when you tell a Common Pleas judge at a pre-trial hearing and ask him if he thinks this is equal protection. I thank this Judiciary Committee for the opportunity to speak and I do hope that they will correct this un-American practice of some lawyers. The courts are for the good of all people, let them respect and protect the rights for justice for all. Thank you.

Judge Carmady: Mr. Chairman, I believe the matter of fair-play .. it is now 4 o'clock.. thatb the opponents to these various bills be given their full day in court. This has gone on all day now and we wouldn't have more than an hour at best and I do think that we should have a full day before us so we can be heard as fairly and as readily as the people in favor of the bill have been.

Rep. Schlossbach: Mr. Chairman, I agree with the Judge entirely, first because I thought it was a good idea that we get more time to study this problem and certainly from the amount of evidence that's been produced here today, a great deal more study is needed. However I would like to have it understood that the proponents have been heard completely as of this time, and we're not faced with some new evidence later on.

Chr. Scanlon: We will now close the hearings on proponents and if there is anyone here who does not have a lengthy opposition and would like to be heard today, perhaps we can hear them so they won't have to come back again another time. But, we certainly will have another hearing so that the opponents can say whatever they want in opposition to these bills and we won't limit them as to time.

Louis Anderson, First Selectman, Brookfield: I am here to oppose any changes in the Minor Court reform bill. I'm amazed sitting here today, listening to the Bar Association with all their propositions in trying to project and further their own profession. I am not against any Traffic court changes. I believe that a lot of good could be done in taking the Traffic courts out of the small towns. I live in the area served by the Danbury Traffic Court, which was supposedly a model set up some twenty years ago. Thank you.

Chr. Scanlon: Can we see by a show of hands approximately how many people intend to speak against these bills. If we could schedule a hearing tomorrow afternoon at two o'clock how many of you could come back. How would next Wednesday morning be?

Frank Franzoso, a Barber : spoke on any changes in Minor Court system would meet with his disapproval. Record was very unclear.

Chr. Scanlon: We will continue the opposition hearing a week from this Wednesday morning, at 10: o'clock up in the Old Senate Chamber. The hearing for today is now closed.

Florence S. White

JUDICIARY AND GOVERNMENTAL FUNCTIONS

WEDNESDAY FEBRUARY 18, 1959

SENATOR JOHN M. SCANLON
REPRESENTATIVE SAMUEL S. GOOGEL
PRESIDING

Members Present: Senators: Scanlon, Armentano, Relihan, Finney, Cady
Representatives: Googel, Shea, Barry, Carrozzella, Conway, Hammer, Katz Lyddy, Mills, Morelli, Murray, Purtill, Satter, Wagner, Schlossbach, Eddy, Dudley, Shulansky, Finch

Chr. Scanlon: We will start the hearings.

Rep. Marjorie D. Farmer, Darien: Mr. Chairman, Members of the Committee: Thank you for letting me speak first so that I may go to another committee. I would like to speak on this whole matter of Court Reorganization. I'll be as brief as possible. First, I favor some of these measures and oppose others. Second, I think this is the year to do some Court Reorganization. It's apparent to your committee I'm sure, that you have sever have several very difficult decisions to make. If as probably many of you do, you think we should have some court reorganization, the question is first, which ones are most desireable? Second, which ones are practical and not too costly? And, third, which ones will the voters of Connecticut accept? Because, when all is said and done that is one of the tests of good legislation as we all know. My views are well known to those of you who have been on the committee before, in regard to the Family Court. I have sponsored a bill for several sessions and I believe that that would be the measure which has the first priority. It is one thing that could be done and done well this year even if nothing more were done. Second, I would favor a new Common Pleas Court which would take over the jurisdiction of the Municipal Court and the present Common Pleas Court. In regard to the Treial Justice Courts, I once favored their abolition. Today I think its apparent that there is a great deal of opposition to that in some of the towns. I believe the Interim Committee recommended the possibility that the towns could decide themselves whether they would come into a new

Rep. Farmer continues: Common Pleas system. If that possibility were given to them, I believe a few of the towns and I'm sure, they would come in very soon, and others would come in from time to time, depending on how well the Common Pleas Court serves the interest of the people. There's one thing I'm very much opposed to and that is giving the judges the power to increase the number of judges. That is a matter which I believe the Legislature should decide and one which as you know has a great deal of opposition among Legislators as well as other people. In regard to the Family Court it is unnecessary to give all thereasons. I'm sure all of you are familiar with those. I believe we should retain the present free judicial system and set up that court with perhaps six judges and as time goes on it will be easy to determine whether they can carry all the business or not. If they can't the Legislature can increase the number. As to any constitutional question about giving questions of divorce and so on to a Family Court, I think it would be very easy by Constitutional Amendment to eliminate the word inferior and a simple amendment I believe would be supported by everyone. I won't discuss the other courts. I believe the Superior Court should remain as it is. In short I believe that your committee can and should find a comparatively simple, practical way of reorganizing the courts without too much opposition from the public. Thank you very much.

Chr. Scanlon: Any other Legislators?

Rep. Robert H. Barnes, Montville: I am again coming here to register opposition as I did previously. At that time I said that I would be very happy to offer suggestions if invited by the Committee. In the meantime and subsequent to that declaration, the leaders in my home town of Montville requested that I do so. I have this in documentary form and I want to present it to you. However I should like to read just two paragraphs of this document. It's in two parts.

Retain Probate Assembly and Probate Courts in their present status. Less perrgoatives and possibilities turned over to the Family Court relating to personal

Rep. Barnes continues: matters. The Probate Courts are doing a highly efficient and commendable job and any reduction in the number of courts would have at least one bad result, a lessening of the present good of community service.

The Small Courts. Municipal, City, Town, Borough, Justice, Small Claims, etc., to be put on a an elective basis for terms of four years, elected to court readily along with Probate Judges. This would be an improvement or reform of the present system without loss of service, while at the same time, leaving in the hands of electors the selection of, of their own choice, their judges, associate judges and deputy judges. In other words, Home Rule. The retention of the two Party system, all of these the Hallmark of our democracy. Should a local court not measure up to standards the electors would have only themselves to blame, but would still have the opportunity to correct the situation at the next election.

I hope when this is all over, Ladies and Gentlemen of this Committee that we, Legislators, vote our convictions and we vote as we see best for our towns and for the State of Connecticut, that we do not vote by being high-pressured or by being influenced to vote otherwise. Thank you very much.

Chr. Scanlon: Are there any other Legislators? All right, then Judge Carmody, the Chief-Judge of the Trial Justice has asked to speak.

Judge G. Carmody, Chief Judge of Trial Justice Courts: Senator Scanlon, Ladies and Gentlemen of the Committee, if I may identify myself, I am Chief Judge of the 102 Trial Justice Courts with their 52 Small Claims Courts. I am also the Trial Justice of the Town of Woodbury. Prio to 1939, I was the Justice of the Peace of the Town of Watertown. I was the first Trial Justice in the Town of Watertown and held that position for ten years. I am now in my third term in Woodbury as Trial Justice. I happen to be a practicing attorney in

Judge Carmody continues: Waterbury. I want to thank you Senator Scanlon for your invitation to appear before your committee and I want to state very emphatically that I feel that it is proper for me to present the case for the Trial Justice Courts. I do not appear today in opposition to any of these Court Reorganization bills, that is not my perrogative. And with that as a introduction it seems to me that the basic question and mind you I restrict my remarks to the Trial Justice Courts, is whether or not, today, the Trial Justice Courts have out-lived their usefulness. I think in a nut-shell, that is the problem. In order to briefly decide that question, I think that if we will look back prior to 1939 and with having in mind the flexibility and the adaptability of these courts over thenumber of years. Prior to 1818 as you all know, the Justice of the Peace was recognized in our Constitution in 1818. It was given official status and as time went on, as means of communication, motor vehicle transportation increased, certain evils, and I say evils, crept into the system. There's no question about it. And the General Assembly in 1939 saw what had happened and very wisely recognized it, the flexibility of the system, its adaptability, passed that very extra Trial Justice Court Bill. Prio to 1939 we had the fee system, it was a terrible situation. Every Justice of the Peace had his own court, he had his own prosecutor, he had his own constable. We know waht happened. In 1939, you enacted legislation whereby each town had its own Trial Justice and he was put on salary. Today, incidentally the average slalary of each Trial Justice in the State is about $500, that is a matter of record. Now since 1939 what has happened? The courts have seen this trmendous increase in motor vehicle transportation. We have seen these new super highways, parkways, come into existence where formerly the major matters befor the court involved Breach of Peace, Non-Support, Drunkeness, matters of that kind, our motor vehicle violations fast came into the effendency. Today, as of today, the figures bear out my statement that there are about 85% of all matters handled by the Trial Justice Courts are motor vehicle cases. Now, its a fair question, a tremendous amount of criticizm has been directed against these

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Judge Carmody continues: Trial Justice Courts and because I am charged by statutes as the appointee of the Chief Justice of the Supreme Court, I am charged with the official operation of the Trial Justice Courts, and as I have read in the papers and I have heard all these criticizms against these courts, I have felt it encumbent upon me to come before you. All this criticizm has not helped the official operation of these courts. There are intimations of non-decense, mal-decense, miss-decense, and I assure you that those ciritcizms are not well founded. Now what has the Trial Justice Court done to help themselves. You help us, we help ourselves I'm sure. Now here's what they've done:

1. They meet in annual assembly each year, here in Hartford, by Statute. They discuss problems they have in common.

2. They have, and I as their Chief Judge, have been engaged in the drafting of uniform rules of practice and procedure, which is greatly needed, without a question of a doubt. As You know the Supreme Court judges are the ones who make the rules, but we are preparing recommendations for their consideration, which I think is a proper function of my office and of the courts in general.

3. We have appointed informally chairmen of the Trial Courts in each of the counties.

4. We have started work-shops in each of the counties. Each county's problems may differ from thenext. Now Litchfield County does nothave the problems that Middlesex County may have with the Turnpike, etc. And we are trying to iron out our problems discussing out uniformity of bonds, trying to get some uniformity of fines within discretion and it's been very heartening to me to see the avid cooperation of all the Justices in all these towns. They want to help to keep their courts. Their townspeople told them they want to keep their courts and they are doing everything possible to keep them.

Now, believe it or not, this system has some virtues. Now let me point out just a few of them if I may:

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Judge Carmody continues:

1. The matter of convenience.

Now that is a frightfully important matter. The majority of these courts meet in night session, both its criminal division and its small claims division. Now it seems to me that that is an excellent example of the Trial Justice Courts suiting the convnnience of the public without any detriment to the administration of justice itself. If you pause just a moment and think, the majority of our people in our State, the only court they ever go into are the Justice Courts. The Justice Courts cover a population of about 315,000 people in the State, approximately 1/6 of the entire population. Most of the people who come in, the majority, are working people. To have them give up a days work to go into court, to have their witnesses in court, so that they can properly present their case is an economic hardship. A long time ago, the Justice Courts recognized that fact, and is a matter of convenience to the public, for the public. These are the peoples courts.

2. The matter of economy.

It seems to me, I believe the watchword of this Assembly is "ECONOMY". I will dwell a little more at length on this matter of economy when I cover some vital statistics here.

3. The matter of efficiency.

Those are the three watchwords of our courts: Convenience, Ecooonomy, and Efficiency. Let it be borne in mind, there is no backlog of cases in any of the Trial Justice Courts, in either the Criminal Division, or Small Claims Division I heard figures here at the last hearing that there are I believe 40,000 cases the backlog of those cases in the Superior Courts of our three larger counties. Now every person is entitled to a speedy trial. They're guaranteed the trial by our Constitution as I recall, and they certainly get it in the Trial Justice Courts. I will not burden you with boring details, but I will just cover highlights which I think are very illuminating. I have actual figures, gotten by myself from all the courts for the year 1957. I have not the final figures for the year 1958, I believe they will be approximately the

Judge Carmody continues: same, so I am projecting the 1958 figures and giving you figures on a two year or biennial basis. Briefly, the total number of cases handled by the Trial Justice Courts in the State of Connecticut for the last two years is 27,000, of that amount, 22,000 represent Motor Vehicle Cases, and the balance other cases, such as Breach of Peace, Trespass, Intoxication, etc Now that figure illustrates my percentage that 85% of your cases are motor vehicle cases. Now the Small Claims Division, now there is one of the great features of the Justice Court system. Approximately 52 or 53 courts now have small claims divisions They are a tremendous boom to the small business man. In the last two year period they handled 13,000 cases and the matter in demand exceeded $1,000,000 Now when you realize that the maximum claim that can be presented to the Small Claims court is $250, that is quite an astounding figure. The merchants in the various towns are high in their praise of this type of court system. It costs them merely a $1.50 of an entry fee. They don't have to retain counsel, they get quick and proper justice. On these 27,000 cases handled by the courts, they took in a total of $550,000 in fines, a breakdown of that is $460,000 taken in on motor vehicle cases and $90,000 on cases other than motor vehicle. Of this amount collected, the towns have retained $380,000. The State has received $170,000. From the amount that the towns have retained they have been able to pay the salaries of all the trial justice officials, the Justice, his alternate, the Prosecuting Grand Juror, his alternate, and the Clerk, if they have one. And, there is a sufficient sum of money left over in most towns to help to defray the expense of their local constablery, or their Police Force. I think that is quite a remarkable situation, and if I may comment a little on that. Courts are not meant to be money-making institutions, any more than our schools are, but in this day of high budgets, rapid inflation, and a devalued dollar, if one branch of the Judicial Department can be self-supporting, I think it's rather pleasant. Now, if I may, having been very familiar with the entire Justice System, with many of its court personnel and its problems, I

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Judge Carmody continues: should like to make three specific recommendations:

1. Let's recognize the Trial justice court today for what it actually is - it is a Traffic Court, primarily a Traffic Court.

And, I would suggest this:

1. Either the Traffic be handled only by the Trial Justice Courts and have other cases transferred to the Common Pleas Court.

2. If any person is arrested and brought before a Trial Justice Court on a charge involving one other than a Motor Vehicle Violation, then allow that person to elect whether or not his case should be tried in the Trial Justice Court or whether or not he would elect to transfer it to the Court of Common Pleas.

I make that recommendation to answer the criticizms of Trial de Novo. It's interesting incidentally to note, that of the 27,000 cases heard, less than 1% were appealed, in spite of all the statements to the contrary. I took that out of the record Gentlemen. Now here is the next suggestion I would make:

2. For the court officials, who are not members of the legal fraternity, I would recommend this: a prescribed, short course of instruction under proper supervision covering basic questions of criminal law and evidence. As a lawyer must qualify by taking examinations in this State, it seems to me that the officials of the Trial Justice Courts who are not lawyers, should also qualify if they are to administer justice properly.

3. For a more efficient organization, and we're always looking for that. I ask that you of the Assembly grant to the Trial Justice Assembly, by legislative action, similar powers and duties granted to the Probate Assembly under the provisions of Chap. 774 of the 1958 Revision. We know what has happened in the Probate Courts, how through this enactment, they have greatly increased their efficiency throughout the State.

And, in conclusion, let me say this: The

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Judge Carmody continues: three watchwords of the Trial Justice Courts are Convenience, Economy, and Efficiency. And I state emphatically from my close observation, as Chief Justice, that the courts offer to the public, and it is quite with the public that we are concerned. They offeer great convenience, remarkable economy, and with wise legislative action on the part of the Assembly, and efficiency geared for the public. Gentlemen, I can pledge you the full cooperation of all the Trial Justice Courts of this State. Thank you very much.

Chr. Googel: One question, do the three recommendations which you just presented to the Committee represent the elective thinking of the Trial Justice Assembly, or are they your own personal ones.

Judge Carmody: They are my own personal condition based on observations.

Chr. Scanlon: Judge Carmody, do you really think it's possible to train a judge in a short time as you indicate you might to sit in judgment on series advanced by attornies who have studied seven years and passed a Bar Exam.

Judge Carmody: Senator Scanlon, a fair question. Let me put it this way:

1. Recognizing the Trial Justice Courts as Traffic Courts, and recognizing the fact that they have to pass on violations, the definition of which has been set by you people by Statute, and where the penalty to be imposed is set by you, maximum and minumum, an administrative body could practicallyndo that. Yes, I sincerely do.

Senator Peter P. Mariani, 18th District: Honorable Chairman, Members of the Judiciary Committee, I come before you to speak in opposition to the Court Reform program. I come before you as a layman. I am a business man. I do not know the intiricacies of the makeup of the court, but I have a pulse of my constituents and I wish to tell you in brief what the reaction is in my area to a court reform program. First off let me tell you that I speak for the man on the street, the working man and the union man and the clerk and what have you, former customers of the court and potential customers of the court. When I

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Sen. Mariani continues: asked them about the urgency for a need for court reform they know little of what I am talking about. They, themselves feel there is no urgency for any correction that has to be made for any major proportion to our court set-ups. Then when I go on and tell them that this court reform program that is proposed tends to eliminate the existence of a local court, and to that they all say, why good gracious, that's terrible, we want our own court. After all, we have our local government, we have our own judiciary, we should have our own administrators and we should have our own legislators, and I firmly concur with that opinion that the local court serves a community well, and not withstanding the fact that there is some difference of opinion as to the qualifications of the makeup of the court, may I tell you that certainly there is nothing in our system as it is conceived today that makes it the system's fault that the qualifications of the respective members of the courts are not set up higher than they are. You have within you the power under the present system to make the court on the local level that which you will. It's a matter of appointment. You can appoint people of qualifications, set up by you and there is no reason to claim that the system has failed, if anything has failed it is that we in the makeup of the court who have failed to demand that the qualifications be such that proper judgment and justice can be given out. Now this matter of the quality of the justice, again I tell you I speak for layman, people who are customers, and not on the inside of a court, they are not clammering for any better quality of justice, they are by and large satisfied with the quality of justice. The State of Connecticut I might say has high esteem amongst its people. I live in an area where there are people from many states who have come in to our district. The New London-Groton area has people from all over the world. I have talked to people from other states and they praise the Connecticut courts and certainly the record I believe will indicate that the quality of justice is not something that has to be apologized for, but the people of Connecticut are being served well by our court system. The statistics will show that any case that has been appealed,

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Senator Mariani continues: by and large, the decision has not been reversed. We have a pretty good record in that regard. When I tell my people that this court reform program calls for thenelimination of the local court, and mind you I have no grief for the type of court, the Municipal, the Town, or the Justice Court, they are all one and the same and certainly each one serves a community in accordance with the need of the community and whether it does it with qualified or full time judges or clerks, prosecutors is a matter of local concern. But when I say we are going to replace that for a more dignified, high-priced court where the staff is going to be of legal backgrounds, members of the Bar, and the judges will be certainly astute members of the Bar, have tenure of office, and all that sort of thing, the people say to me, why good gracious, everytime they rap a gavel it's going to cost us $150, you can't go into a court like that and defend yourself. There are too many cases of minor cases, misdemeanors, traffic violations, or what have you, and that certainly can be handled with that lower court. If you want to changed the character of the local court, do it by all means, but don't take away from the community, please, the character of the local courts. We need our local courts just as much as we need our own Administration, just as much as we need our own Legislative Body. We probably don't have what you call a local court, not with the summonses there it's a State - controlled system to be sure, but each community feels it has its own courts. And, if you want to do something to improve the makeup of the court, I think it can be done with our present system. We don't have to apologize for the system, we don't have to change it. Thank you very much.

Chr. Scanlon: Representative Schlossbach.

Representaive Schlossbach, Westbrook: Mr. Chairman, Senate Chairman and House Chairman, and Members of my Committee. I do not wish to speak here today, however as a member of your committee, even though its very hard to separate the two. I would like to speak here only as a citizen of the State of Connecticut and as one who has had some experience in this respect,

Rep. Schlossbach continues: and please do not classify me as an expert. I am very happy today to see that we have a great deal of the ladies of the League of Women Voters, whose job it is to study this particular problem and I am very happy that these ladies, and the rest of you Ladies and Gentlemen here today have had the opportunity for the first time, and I say that without fear of competition, for the first time to hear the real opposition of the court issues. We have learned so many things by those who are in favor of the proposed bills, but yet the story of opposition and why there is opposition has not been told. I could very well have said that I would like to rest the case for the people on the testimony that has been offered you by the Honorable Judge Carmody, because I think that in most every respect, Judge Carmody has indicated to this body and to the public, the need and the necessity of value of your Justice Court and your minor court. I have prepared a very lengthy speech, but in view of the fact that Judge Carmody has so well portrayed the case for the people, as I call it, I'm going to try if I can to scan through the notes that I have prepared with the effort of giving you something in addition, because while repitition is emphatic, it sometimes loses it's value. I will start off by saying I have been a member of the Assembly now for four terms, this is my fourth. Of those four terms I have spent each Session on the Judiciary Committee and have been at all times a member of all sub-committees having to do with the court reformation bills and bills of like nature. However I was also a prosecutor in my town for a period of seven years, I've also been in the business world, as you all know, having been the owner and operator of a hotel for a period of 16 years, and before that I was a practicing attorney in the State of New Jersey for a period of 11 years. So that when I speak to you I don't want to be classed as an expert, but I do want to be classed as one who has had experience in each and every line that you are concerned with. As a member of the Legislature I have heard the arguments that have been brought forth before this group and they haven't changed too much, except that we now have moved into an era where we are asking for court opinion prior to its trial. I objected to the

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Rep. Schlossbach continues: fact that the Justices were invited before this committee, not because I was afraid of what they were going to say, because the newspapers already had it, where they got it I don't know, but your newspapers came out with the story that Judge so and so was going to say so and so, etc. But they didn't give you the entire story, because obviously, they couldn't get to all the judges. It was very interesting to me, and unfortunately, this was not an open meeting, it was an Executive Session, one which was closed to the general public, to the Press and no record of which was taken, so we have to rely on you who were there to be the best judges on what you heard, so if I should in any way be in error as to what was said there, your own recollection will serve you best.

Rep. Googel: Mr. Schlossbach, I don't think that you should repeat anything that was said at an Executive Session, by any of the gentlemen in question, or by any of the committee members. That's why we have Executive Sessions, as you well know, having served on this committee for four terms as you stated.

Rep. Schlossbach: I would normally agree with you Mr. Googel, except that after the Executive Session a statement was given to the Press and if that isn't opening the door for the revelation of anything that went on there, then I would like to know what is.

Chr. Googel: Mr. Schlossbach, I don't want to dicker with you or get into an argument with you, but you know that after every Executive Session, the newspaper men generally get a statement.

Rep. Schlossbach: From every caucus. Particularly the ones that we're having now. I am not going to belabor the question Mr. Googel, but I will say to you and to the members of your committee who heard it that there were things there that should indicate to you that the present bills are of little value. Both from a question of tact, operationg and constitutionallity. The red flags are flying, there is no question about that, the red flags are flying, I'm saying it, I'm saying that now, and I don't think that I'm going to be stopped

Rep. Schlossbach continues: from saying it. The red flag are flying, there's no question about that. The red flags are flying because each and every one of these bills are filled with danger signals. Signals that will cause future litigations. The constitutional question is well known to all of you. You know and I know that it has already been decided as a matter of fact in the minds of some of those who are going to decide this question that the Constitution will not allow you to make a Family Court and if there is such a desire and I don't say that I am opposed to such a Family Court. I think something should have been done about it long before this important question has been brought up, not once but many times. Now the proponents of these three bills, the Bar Bill, the Administration Bill and the Interim Committee Bill all say three things: first, that they will be fair; second, that they will be faster, and third, that they will be allowed a more equal justice. I say that Judge Carmody has answered most of those questions, but I should like to go into just a few of them. There is a very well known saying that a chain is only as strong as its weakest link, and I say to you that this magnificent work, and I say that it is a terrific job that the Bar Association has done in preparing this bill, a great deal of work has been done, there's no question about it, but look what they have produced and offered to you for passage. Being in the hotel business for many years it reminds me of a hotel in our locale that spent a million and a half dollars in creating beautiful rooms, dining rooms, beautiful bar and lounges, beautiful pool, places to park your cars, places to stop your boats and then what do they do, with all the money that they spent to beautify the place, they hired a lousey chef at a $150 a week, and it wasn't long believe me before this big wonderful operation was going down the drain, and they lost money hand in foot so that now that organization has been turned over to somebody else. And, I say to you that this is exactly what your Bar Association Bill has done, and you say where? I'll tell you. You have demanded, not you, the Bill has demanded that judges be given tenure of office and yet when you go down the line and you come down to the most important part of it, where has the difficulty been Gentlemen, and you know it

Rep. Schlossbach continues: better than I, because you are practicing attorneys, where has whatever difficulty there is found in the smaller minor courts been found. It hasn't actually been with the judges, because the judges don't do much of the work which you are complaing of, it is the prosecutor. When you go in to see one of the judges or go into to do something for a client in any one of these courts, never do you go to see a judge, because if they are judges of stature, they won't even listen to yuu. I can remember when one of our Supreior Court judges threw a member of the court out because he appealed to him for leniency on the part of a defendant. The action is taken by your prosecutors and where in any one of these bills do you find tenure for a prosecutor? Where is it? Where is the tenure for the prosecutor? Where are you going to find the prosecutors who are competent? Compentent enoughto handle the work of this particular viewpoint for $8,000 a year? Where are you going to find the competent judges to do this job for $14,000 a year? Are they going to be the older practioner who has had the desire to now retire, or are they going to be the younger man who is coming up and wishes for security? But, we're talking about competence now. The question of better courts always brings together, and again I think Judge Carmody has spoken on that, the question of what is wrong with the courts. And, yes you have heard people come up here and speak before this committee, you have heard articles and read articles in the newspapers of the horrible conditions which exist is the minor courts, but I say to you that a great many of you have been practicing in this state for quite a while, I think that you and I say to you when has one case of malfeesance been brought before the courts, name it. The only way that thenpeople have changed their small courts is by their vote and I say that's where it belongs. This is a question not of what lawyers want, let's face it, I happen to be a lawyer, but I don't prescribe to the position that lawyers have a monopoly on brains. I want to say to you now that there are many of our Bar judges in the lower courts, who have had a great deal of business ability. In fatc in my own court for four years, I had a judge who was not a lawyer and in the last three

16.

Rep. Schlossbach continues: years I had one who is, he was young, he was eager, he had a desire for learning, but he was not as competent. Believe me he was not. And, I don't think that competence comes only with age. I think experience is a wonderful thing, but I think you have to have it first before you can retain the idea of real competence. You have heard everyone who has spoken in opposition to the bills that are now pending here, and everyone of them has said that they are in favor of some kind of imporovement and so do I. Believe me, I think there should be improvement, I think the improvement should start, not from the bottom however, but from the top and work down through the bottom, because I think I can show you, and I'm not going to take the time now, where we can do something about our upper courts in improving those. I would like to suggest rather than the present Administrative Bill. I think we have, laws that we have which gives the Chief Justice the right to administer our courts. I would like to see that taken away from the Chief Justice. I would like to have a Administrative body which would be part of your judicial system so that you wouldn't run into possibly the question of division of government. I would like to see that Administrative body consist of not only one person but perhaps a board of three, all of whom would be, or most of whom would be, shall I say, trained, competent, individuals in the law. But give them some power over the highest and the lowest court. Let us bring this thing before the improvement that we talk about. Let us not do away with our court. There is nothing wrong with our system. It isn't the system that's wrong, it's the personnel and you know it. There's where you have the complaint. You saw it in the last hearing. You saw two lawyers who appeared before you and said if a man comes into his courts, he was a lawyer-judge, without a lawyer, he'd penalize him. Another one complained he had to go so far into the woods, he didn't tell you that he got paid for it, did he? He didn't do it for nothing, I'm sure and he didn't get to tell you whether or not he liked the judge that he got when he got to the kitchen. I say to you that the fact that justice is over a kitchen table, is no different than whether it is over or in front of a bench in a court-

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17

Rep. Schlossbach continues: room, as long as the individual who is there has the ablility to listen and to judge. Judges are not made, they're born. You can take many a judge on your upper courts, that you know should be there and many that shouldn't. He has been a political appointee and he has been given the natural normal raises that go with it.- Luckily, and I say this with some knowledge, because I have seen some judges, we have had a magnificent court in most instances. There's no question about that. But when I came back to the question of the common pleas court and there is the court that is going to get the load of influx of 160,000 cases a year, motor vehicel and otherwise. The load is going to be on your Common Pleas. The load of 160,000 cases will have to be taken by these new courts and we heard not so long agao of the jam in the other courts that it takes you over two years to be heard in New Haven, it takes you three to three and a half years in Hartford and in Fairfield its worse. We Heard that and we also heard someone tell us that if this new influx of cases comes in to the Common Pleas court, you're going to have the same jam that you have there. So what do we gain for our courts. Don't put a price tag on services, I've heard that so much, I'm sick. I say there are services where you expect to lose money. I say that there are courts where you expect to lose money, but I say to you that it is your right to look at very carefully whether or not you are getting what you want before you pay for it. I think that is the job of this committee and it's going to be the job of the members of the House if it comes in there, because we know very well where the Senate stands already. Someone said let's get power picked out already, that's really a fine statement. That's really a magnificent statement- Let's get power picked out. Well, if I ever saw centrallization at its worst, - I saw it the other day. When they apparently became ready to organize a.....

Chr. Googel: You're being repititious because you are repeating what other people have said and the Committee has already heard those statements. There are a lot of people here who want to be heard, Ben.

Rep. Schlossbach: I'm not appearing here as a member of the Legislature, and it took six hours for the Bar Bill and the Bar proponents to go along with it.

Chr. Googel: We understand, but you are going to have ample opportunity to express your views before the Committee, you know it.

Rep. Schlossbach: And, I'm going to have ample time to do it here too, Sir. Centrallization, as I have heard it is being suggested and I think this is in regard tonwhat we are doing now. We're trying to centrallize our courts too, because some of those bills you have seen have the power that is to given to someone other that we have heretofor had. We as Legislators had the power, but this is going to be taken away from you and I. Now, I'm going to close with just oneother thought. I think it's important because as I have said to you, this is a question for the people where is the bill in which those rights are preserved? Is there anything in any oneof these bills thatbwill indicate to you other than the bill of the Interim Committee, which keeps the small courts, and I am very much in favor of that bill. Where is there anything in anyone of these bills that says that the people are going to be asked whether they want this or not. Do you find a single offer of a referendum? Is there anything in any one of these bills. Must it pass this Session? we have had referenddums on many bills, under the Home Rule Bill now, referendums are necessary. We are for the people, and if we are, where is the referendum for this bill? And I say if you put this bill out, you must do it with a referendum. Thank you very much.

Steven K. Elliot, Chief Judge, Probate Court: Senator Scanlon, Representative Googel, and Ladies and Gentlemen of the Committee and the audience, I will try to be extremely brief as we have one or two otherspeakers. By way of identification, I am Judge of the Probate Court in Southington, and I have served there eight years. I am President of the Probate Assembly and I hold the appointment of Chief Judge ofnthe Probate Court.. We have noticed with considerable amazement that in the Bar Assocaition Bill, and I should say, so-called Bar Association Bill, that I speak also as a member

19.

Judge Elliot continues: of the Connecticut Bar Association, that I am not completely satisfied that that bill has ever been approved by the Connecticut Bar association. I was rather amazed to see the changes that are proposed in the Probate Courts. I have never had anybody say to me directly who had any business with the Probate Court, to say they're dissatisfied with the present system of Probate Courts. It is a simple and direct, economical and efficient system. The Probate Court Judges throughout the State of Connecticut hold approximately some 50 -60,000 hearings per year. There were in a recent year and it was by a check that was taken, 52 appeals made out of some 50-60,000 hearings. This is less than 1/10 of 1%. It does not seem to us that it would require taking a stenographic transcript of some 50 or 60,000 hearings so that there would not have to be a complete trial de novo in the courts. That to us seems a tremendous waste of money. You will note that in the Bill, it provides for 12 judges at a salary of $15,500 per year, upto 24 Surrogates at a salary of $10,000 per year. You are well on your way to over a million dollars by the time ypu get through with court facilities and with stenographers, sheriffs, messengers and the like. Our present system does not cost the State of Connecticut one penny. The judges and the courts are supported by the fees and there comes a question that has been raised. Now as my experience as Probate Judge I must say that never once has anybody said to me that the fee is too high. On the contrary, I have had many people say is that the only charge here. Under the present system, a widow who is left with a small bank account, a house with a mortgage and comes in and has a conference with a Probate Judge and she's well on her way to settle that estate. The lawyers are not interested to participate in that estate because they would hesitate to charge that lady in her circumstances a fee, and so you have direct and efficient transactions of Probate business. Now with respect to the title situation and this is important to everybody. Title searchers have to consult with Probate records and if we don't have local Probate courts, title searchers have to go elsewhere to search records and that increases the cost of title searchers. All of the

20 fir

Judge Elliot continues: citizens of the State as — prospective property owners are interested in that. Jugde Johnston will not be here today, of the Hartford Probate Court, because he is ill. A year ago in speaking about the Family Court referred to it as a disorganization bill and he spoke of it in that manner because the Family Court would attempt to take some jurisdiction from the city court, some jurisdiction from the Probate Court, some jurisidction from the Juvenile Court and some jurisdiction from the Court of Common Pleas. And by disorganizing all of those other courts, they hope to weld in a Family Court. Now, the word Family Court is a magic wand that the proponents would have you believe would solve all family problems. There is nobody more interested in the family and the preservation of the family unit than the present Probate Courts and I respectfully submit, Ladies and Gentlemen of the Committee, that the real Family Court is the present Probate Court that deals with the problems pertaining to the family in estate in appointments in committments and in adoptions. Before that system should be changed there should be a case made out that the present system is not operating efficiently. I submit that it is. Now I might say that last December, I had a lady call me one evening. she wanted to know if she could see me at the office, — and I might say also this, that every Probate Court in the state ofConnecticut is holding special sessions on Saturdays and on any evenings to accomodate people, but in this particular instance this woman had been a member of the League of Women Voters from my area, and she had moved to Pennsylvania just about a month before and she had been an opponent of the Probate Court system in the State of connecticut while she lived in Connecticut,— and shortly after she had moved to Pennsylvania, and it was less than a month, her husband died and she went into the, I very much believe they have the Probate system on a county basis there, I believe they call it the Widows and Orphans court, and she wanted to know if she moved back to Connecticut, could she bring that estate back to Connecticut and have it probated. I said I thought you didn't like the Connecticut Probate Court system, and she said believe me I have had my eyes

21.

Judge Elliot continues: opened after I have had some experience where they have it on a County division. Thank you Ladies and Gentlemen. I just wanted to say that we have a message from the Executive Secretary of the Probate Assembly and I will introduce Mr. James Healey, son of Patrick Healey, who is Executive SEcretary of the Assembly, but who happens to be in the hospital today.

James Healey, representing Patrick Healey, Executive Secretary of Probate Assembly: My father asked me to make his statement to you. Of course I'll confine myself to the Probate Courts alone. In his behalf I would like to file with this committee a few signatures which I have before me and a reprint of an article written by Patrick Healey and published in the Connecticut Bar Journal in October 1958, which I submit covers the situation thoroughly and establishes that the Probate system is efficient, direct and should be preserved in the public interest. The second exhibit shows the Connecticut Probate Assembly as of Feb. 2, 1959 from its 1958 receipts allocated and paid the treasuries of the various towns throughout the State a total of more than $23,000. Now the Probate Courts differ from other courts. They perform many administrative as well as judicial functions and a vast majority of cases of people who go to Probate courts are not litigants, they are not adverseries. They are simply the members of the families interested in a speedy, orderly, economical settlement of an estate. They see things are informal, the judge wears no robe, he has no bench, he has nogavel, and he has no sheriff to pound the gavel. The procedures are simple, they're fast, they're economical in time, money, trouble and red tape. Delays just don't exist in the Probate Courts. Ordinarily hearings are held within a fraction of a week of an application and often within three days. Every day's assignment is a special assignment and has the right of way as to appointed hour and day set for the convenience of the parties and their attprneys. No other court affords such speedy convenience. Any party who wishes to remove any matter to Superior Court for formal rules and procedures they readily do so. Now Judge Elliot has already remarked on the very small number of appeals that are taken. I

22/

Mr. Healey continues: would like to point this out, one speaker the other-day professed particular concern about pro-ration of taxes. He discussed what a complicated thing it was now for the Probate Judge to be expected to properly handle that. We have not been able to find one single appeal in the entire-State of Connecticut from a decree of pro-ration entered by a judge. It seems very doubtful to me that they have the trouble that was mentioned. Many of the judges and many members of the staff have made Probate work a life-time career. Over 50 of them are lawyers and that's particularly significant because their districts handle about 85% of the entire volume of work. About 15 are women who give their time - and effort. And all judges, whether layman whether lawyers, have available at all times the Secretary of the Assembly, as a law clerk and a researcher. The general public's satisfaction is evidenced by the fact that is being come traditional in many instances for Probate Judges to be elected to office again and again and many of them are receiving endorsement from both parties. The Probate Assembly has taken many steps to improve and simplify procedures, has made them uniform throughout the State and has worked inconsistently in settling for further improvement. One of the best indiciations that the people really like the probate courts is that every Legislature receives bills for the creations of new ones, which will be more successful and convenient. The people have demonstrated again and again that they want local probate courts and that they are opposed to centrallization, to merge and consolidate. The proposal that all Probate judges must be lawyers raises serious constitutional questions. The Constitution not only requires that the Probate Judge be elected, but also provides that every elector shall be eligible for every office. Accordingly any statutes seeking to eliminate eligibility to lawyers would clearly violate that Constitutional right afforded every elector. Incidentally, the proposal that all judges in the Probate be lawyers could easily be extended to require that all Senators and Representatives, Aldermen, Councillmen, Selectmen and all persons holding any office and in any degree of importance should be lawyers. After all it takes skill to enact legislation, to draft it as well

Mr. Healey continues: as to enforce it. Any such theory is directly in conflict with the fundamental philosphy of democratic government, which holds that each and every citizen is eligible for the election of any office. More heat than light has been thrown on the thesis. And the present—Probate Courts are they must be self-supporting and cannot be or become a drain on public funds. The cost of operation is paid by the people who use the services, the towns make relatively small contributions chiefly in providing quarters. Instead of drawing upon public funds as I have noted the Probate Courts are turning back substantial sums to the towns. The cost of administrating estates in Connecticut is very low in comparison in other States. As you of course know there are presently flat all-inclusive fees of $10, $25, and $40 for estates in the $1,000, $2,000 and $3,000 brackets and a bill before this Assembly which was drafted and sponsored by the Probate Judges would if enacted provide similar, comparable flat fees in estates such as $10,000. The incomes of all Probate Judges, especially those in the higher brackets have been reduced substantially by Statutory assessments and of course it must be borne in mind that Probate Judges have no assured tenure in office, not pension or retirement benefits such as he may buy or pay for after his net after assessments income tax. Any proposal for a change in the present Probate system must be judged simply whether it will bring about a — better more efficient expeditious, economical satisfactory service. The atmosphere of dange must shoulder the substantial burden of proving the claims and in this we submit they have utterly failed to do. Let me take one more minute. I'm not going to go into this at length because Judge Moran, who is one of the experts in this field is here and he I know plans to address you on it. And that is the matter of adoptions, committments, guardianships, and all of the matters involving persons. Let me just say that the Probate Courts have done an admirable job on this and let the rest of it up—to Judge Moran. Now respect to the so-called Bar association bill, we submit that it has never been — approved by or submitted to the Bar Association. The vote raising committee which

Mr. Healey continues: drafted the bill simply directed that the Probate Courts be excluded from any integration plan and the Chairman of the committee has admitted that he and his associates violated that expressed instruction. The so-called referendum was in the most general terms and further more was as loaded as a Russian election. You could either vote YES or not at all. Many lawyers threw it away in disgust, the little group of zealists who drafted the bill, beat the drums for weeks before the meeting in Middletown in attempt to build up an attendance, they got 14 people to attend out of a total membership of 2,500. The Probate Judges, laying aside all personal considerations are strongly of the opinion based on their first hand knowledge and natural experience as the public interest requires that the Probate Courts be continued and preserved as they are and that none of their functions should be taken from them. Thank you Mr. Chairman.

Chr. Scanlon: I would like to ask before we hear further testimoney that anyone who might have a prepared statement, if they would simply briefly out line what is contained in the statement and leave the statement itself with us, we can get a lot more people heard this morning who are waiting patiently to be heard, and I might also ask that the testimony be limited to new information, We appreciate the fact that many, many people may have the same objections, but if we can have only new material, we will give that many more people a chance to speak.

Judge Edward G. Moran, Judge of the Probate Court, From The District of Norwich: It has been my honor and privilege to serve in this capacity for the past 20 years. Gentlemen in order to save time I would like to incorporate my reference in my arguments About 60% of what I heard a week ago last Monday in support of the arguments of Probate Court and other Court Reform in the State of Connecticut. For in my humble opinion, I think that about 60% of that argument is the best argument against some of this so-called reform. But, Ladies and Gentlemen, the thing that I want to do particularly is to say to you in all frankness and in all candidness, that if it is your conviction that the

25.

Judge Moran continues: Probate Court in the State of Connecticut should be abolished, then do it honestly and forthrightly and don't do it by indirection. I say to you Ladies and Gentlemen, for the past 20 years I have come before this Legislative body and listened to some of the arguments as to why the Probate Courts should be tampered with. I have appeared before Jang's (?) Committee and the Munger Committee (?) and I refer you Ladies and Gentlemen ton their reports after their thorough investigatiions of the Bar system as it effects the Probate Courts of the State of Connecticut, and it is my humble opinion Ladies and Gentlemen that the proponents who over this long period of years have sought diligently to abolish the Probate Courts, are now desireous of doing it by indirection, insofar as if you will scrutinize some of the provisions of SB 492, establishing a Family Court for the State of Connecticut. They won't abolish the Probate Court, but they will take from it some of its greatest perrogatives when they take from it jurisidction of divorces of guardianship, of adoption, of committment. And let me say to you Ladies and Gentlemen, in passing, in the matter of committment, the Norwich, the Middletown, the Newtown and the Hartford Probate Courts today handle and handle expeditiously at least 90-95% committments to your mental institutions to the State of Connecticut. And I say to consider transferring that jurisdiction which is so ably handled now in my opinion by the Probate Courts of Connecticut to a new Family Court, I think you would be making a most serious mistake. And now my friends, I want to speak to you on one other matter which come very close to me. It was nearly two decades agao that I went from one corner of this State to another advocating the set-up of our Juvenile Court system for the State of Connecticut and I do not now wish to speak in derrogation of what that wonderful court is accomplishing, but let me say in all humility Gentlmen that the Juvenile Court in the state of Connecticut is not accomplishing what I promised the people of the State of Connecticut that it would accomplish. I told them then that if we shut off the Juvenile court system in the State of Connecticut we'd hit off the spread of

26.
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Judge Moran continues: juvenile delinquency in this State. I say to you Ladies and Gentlemen, you know of your own experience and your own knowledge whether that has been accomplished and I think it is high time that we started to reevaluate the true value of that system rather than to extend to it jurisdiction of other matters which are now ably handled by the Probate Courts of the State of Connecticut. I say to you in closing Gentlemen and I say to you very frankly the Probate Court system has its short-comings. We through the Probate Assembly, which was an organ of your body, created by the 1947 Legislature, we have endeavored to improve the standards and the high calibre of the Probate Courts in the State of Connecticut and Gentlemen and Ladies, I feel that we have been successful in so doing, and I want to say just one other thing. I don't want to go into figures, you Gentlemen will have those, and I know that in the statement of figures that was given to you by Judge Ells, a week ago Monday, I know that that represents an honest and sincere effort on his part to arrive at what this Court Reform system would be to the state of Connecicut, but it wasn't so much Gentlemen, figures which Judge Ells presented to you that impressed me, but rather it was the lack of figures on behalf of the Representatives of the Connecticut Public Expenditure Council whose business is primarily figures,—and you Hope, rather I hope in your Executive sessions, you will see to it, as I know you will, that some real basic foundation is laid so you will know about what this court reform movement will cost the taxpayers of the State of Connecticut. And, now Gentlemen in closing, let me say this to you, if you feel that there are short-comings in the Probate Court system, then reach into the roof if you will, but don't tear down the structure which in my opinion, is the most basic foundation for the carrying out of these ideals and ideas, which are set forth in the Family Court, and I would say that those advocates of it use the same energy that you are applying, go diligently to this reform movement, use that same energy and that same enthusiasm to restore to the homes of Connecticut the sanctity of the homes and the respect for authority and accomplish just be remedy and also by

27.

Judge Moran continues: the basic reestablishment of respect for authority in law in the homes of Connecticut. And I feel if we do that we can all work together in a program which will result in nothing, but improvement in our moral standards, in our standards of living, in the reestablishment of the sanctity and the dignity of the home. Gentlemen, may — I present Mr. Anderson, who is the Chairman of the Executive Committee, who would like to make a few remarks relative to Probate Court system.

Hjalmar Anderson, Town and Probate District, Redding: — I am a layman, I have been Judge of Probate in the district of Redding for some 22 years. Perhaps I am one of those individuals that the Bar Bill and some of the speakers for it have singled out to be the individuals who sit and shouldn't in our Connecticut Probate Courts. With this the Probate Assembly and the Executive Committee of the entire assembly disagree. My remarks will be as brief as possible, I sympathize with the members of the committee in hearing many things that are repititious, some that are not so interesting, etc. We are appearing here today and appeared a week ago Monday, all of us, the Committee, the Proponents, the Opponents, in the interest of one group of people, the people of the State of Connecticut - the citizens, if I may borrow that term from some of the opponents of the Probate Court. If we are not here in the interest of the people of the State of Connecticut, that is the citizens, no other motivating force is worthy of your consideration - only the people's interest themselves. Certainly the lives and interests of more people of this State is touched by the operation of the Connecticut Probate Courts and all of the other courts put together, regardless of the back-log of cases they may have. The surviving widow, or spouse, or the minor child, the incapable person, will surely come into some Probate Court while neither they nor any of their relatives may have occasion to appear in any of the other courts in the State that is under consideration in this legislation. The very intimate and personal nature of many of the problems that are brought to our Connecticut Probate Courts requires, I believe, as do the members of the Assembly, that the applicant be

Judge Anderson continues: permitted to sit down in a friendly and unlegalistic way and discuss the problems of the estate or in a personal nature of the business that brings them into the Court. Now this procedure exists today only in our Probate Courts and has existed from the inception of these courts. If this is substituted for this ponderous and expensive machinery that is in this bill, S B. 793, the costs will certainly rise and everyone will be required to appear with counsel at some distant place, far from their own home area and a subsequent loss of time and expense beyond the fees that are paid for what they do. Under the proposed system the cost of the Probate Courts under the new legislation cannot possibly be carried by the fees as they are today. The widow with the small estate which she has to settle and process will pay an insubordinate amount to the size of the estate as compared to the amount that the millionaire will pay to the size of the estate that is being probated on his behalf. And the extra amount after these fees are assessed, the extra amount needed to - finance these courts, the clerks, surrogates, and all the rest of the paraphanalia that is set up with them, all of this extra amount needed to operate these courts will be levied against all of the taxpayers of the State of Connecticut and this same widow will again share in the cost of the new Probate Court and again share in settling the million dollar estate. Because my court is a fairly small one with the population in the town of some 3,200, I would like to present a picture typical of an average citizen in Connecticut. Either the husband or wife, who may several days after the funeral come into the court bereaved and bewildered, she is suddenly thrust into a situation completely foreign to her and she timidly asks as she sits down: What do I have to do? I brought all the papers with me, do I need a lawyer or can you help me settle the estate? Will it cost very much? I'm not going upon anything expept memory, Ladies and Gentlemen, this is what happens many times. This lady or man asks these questions and her questions can be asnwered efficiently and simply from a friendly Judge of Probate sitting across the table from her. Many times there is

29.

Judge Anderson continues: no need for independent counsel for this person to have her affairs expeditiously handled. These then are the citizens of the State of Connecticut. They are not what you heard a week ago Monday, top flight - executives, presidents of large corporations who have left the dignity of their names to letterheads or executive committees. I know the roster of - the membership of the Citizens for Better Courts, but I dare say it is not very large, nor does it include the man on the street. Certainly the average citizens who have appeared in our Probate Courts are not here today, nor have they ever been before the Judiciary Committee to clamor for abolition of - their own Probate Courts. When a person is satisfied, he is usually silent. It is only when he is aroused and has a complaint then he raises his voice high and criticizes. The average citizen of Connecticut is today silent and satisfied with their Probate Courts. We all realize that pressure Groups are a commodity in the Legislative public hearing rooms. This has been so for many, many years. I have calculated here a few figures, a comparison of figures in a small community that has an active group of membership of the League of Women Voters, who are a dedicated group of women who want to do the best they can for their community and for their State I'm sure. The entire roster of this particular group is about 100, of these 100, perhaps 55 or 60 may be - said to be in favor of reform or abolition of the Probate Courts. The entire roster of women in this community who are voters is about 910, now shall such a small percentage in any community, in the cities that may be larger, shall such a small percentage be permitted to commit all the rest of them to a prescribed course of action. And, what of the men voters in Connecticut, there are plenty of those. We hear no appeal on their part. Do not permit, Ladies and Gentlemen, all of the local fireworks on either side of this question to complete the story for you before you have deliberations. When you are back home in your community, ask your neighbor and your friends and any of your

Judge Anderson continues: business associates who have had any experience at all in your Connecticut Probate Courts, how they feel and get their answer at first hand. Thank you very much.

Samuel A. Woodward, Trial Justice, Kent: I have been trial justice for almost 20 years continuously. I am not a lawyer and I am not an expert on Court Reform, beyond the fact that my wife is President of the Kent League of Women Voters. I am convinced that there is undoubtedly need for reform in the courts. I shall speak however on matters only that I have knowledge of, matters concerning the trial justice system. I went to the hearing last week, not with the intention of speaking but to learn about the facts and I wonder whether the charges by various speakers constitutes evidence or allegations. The impression was made that trial justices were butchers, farmers, even housewifes, and let the League of Women Voters note that there is an implied slur upon American womanhood in that connotation I think. The impression was also conveyed that the trial justices hold their sessions in barns, even in kitchens. Now what are the facts. The Register and Manual of 1958 shows that of 102 Trial Justice Courts, 85 of them hold sessions in Town Halls or other Publicm buildings, 8 of them in schoolhouses, 6 in other public buildings, such as libraries, and only 3 in residences. And, I submit that the lawyers must have had an unusual experience. I would also like to comment on the remarks of a Municipal Court judge, a member of the Bar, who alleged three catagories of influences on the Municipal courts and Trial Justice courts:

The presence of abscence of an attorney.

Whether the party was a local resident or an outsider.

And, the political party affiliation.

Now whether this is true in a Municipal Court with a member of the Bar of the

31.

Trial Justice Woodward continues: state of Connecticut presiding, I do not know. It is not true in the Trial Justice Court of Kent and I am insulted by the implication. We go out of our way in court to give the citizens every benefit of his rights even if he is not represented by an attorney, as to whether we favor local people over outsiders, I submit the facts could be studied very easily by a law student in a few hours in terms of average sentences. I have not heard the evidence. as to political party affiliations, I have an agreement, I have been appointed nine times, reappointed by the Selectman, I have an agreement with him, they take care of the highways, I take care of the courts. I would just like to comment on one other matter. It is said to protect against insidiuous influence, full time judges with tenure are necessary, and I note from the figures submitted by the State Bar Association, concerning their proposed bill, that the prosecutors were estimated to cost $8,000 each and the assistancts, $4,000, not very highly paid if they are full time and they don'e seem to be protected against influence, which my lawyer friends say the prosecutors are exposed to. And, in conclusion, the principle of democracy as stated by Thomas Jefferson, basically that the honest plowman can have an opinion which is just as valid as that of the most learned philospher. Andrew Jackson said something like that when he said : The duties of public office are so simple, or can be made simple so that any honest man can discharge them. And I believe, especially the people of the Democratic Party, and Governor Ribicoff should pay attention to these great Democrats. Thank you very much.

Edmund Park, Clinton: I am 77 years of age. I am not a judge and I am not likely to be a judge at my age. I didn't expect to say anything about the Probate Court, but I would like to say this, I had occasion to go into Probate Court in my own town, three times, for relatives and close friends closing estates. I went before three different judges during that period, two of whom were lawyers, one was a layman. I received courteous, efficient treatment from all three. I would very greatly

Mr. Park continues: regret to have the courts taken out. I don't want to go furtheron that subject, I don't know much about it. I served in my town as a Justice of the Peace and later as a Trial Justice for approximately 20 years and I believe that the courts as a whole have done pretty well. Unquestionably there have been instances where they haven't. But, on the whoel I believe they have done pretty well. They have a limited jurisdiction and appeals can always be taken to higher courts where you have judges to handle the case. A Trial Justice has no legal training and he may have. But I believe lawyers under severe times have been under criticizm, even the Supreme Courtb in Washington has in such papers as the Saturday Evening Post. I do feel that lawyers are men and infallible the same as the rest of us, so that I don't know that we would gain greatly in putting all our courts in the hands of lawyers. In the trial justice court, the town pays the cost. At the present time, the State is in the red anyway. To add further expenses, doesn't seem to me at all adviseable anyway. I travel through a many small towns in connection with a small business I conduct in the State. I have found in those small towns no demand for a change in the present small town court system, in fact I find a great many who are anxious to see it remain as it now stands. My feeling is that this effort for reform has come largley from the cities and veryvlargely from the Bar Association. I served as Grand Juror, prior to serving as judge, and I have had cases appealed to the higher court. I think in only one case was the appeal sustained and in that case three witnesses appeared before that court and weren't even heard. That was an instance where a drunken driver rean into an undertaker's wagon, upset the wagon and corpse and then the driver got out and struck the man driving the wagon. I sentenced him to jail and the higher courts didn't even hear the witnesses. One case I recall a New Britain judge appealed, and they reduced his fine and sent him to jail. He was a drunken driver also. Appeals can always be made to higher courts. Thank you.

33.

Alfred Santaniello, attorney, Norwalk, and Probate Judge for the District of Norwalk and Wilton: I'm also a former Municipal Court Judge in Norwalk. I'm not going to try to reiterate things that have been said here, but I might mention in passing qualifications of judges, I hope that the Committee will not lose sight of the fact that judges are individuals, whether they sit on the Superior Court or a lower court, in my humble opinion, they will act the same, being individuals. Also, in my opinion, I believe that all judges are not born, some are, some have to be made, and I believe the minor courts sometimes aid a judge who is appointed in our higher courts and that is the reason I think today we have so many fine judges in our higher courts because a lot of themif you check their record have had previous training in the lower courts. As far as the Probate Court is concerned I'm not going to say anything about it, because I think my predecessors have covered that. I am getting down to the minor court reorganization. When the minor courts, or if it becomes a branch of the Court of Common Pleas, in my opinion out the window goes the people's court because, if records are checked in the minor courts today, in the justice courts today, you will see there are very many minor cases that do not necessarily require the services of an attorney and a person can come into court and plead his own case and do very well at it many times. Once this is changed, and the judge dons his robe and he sits up on his bench, people will hesitate to come in without an attorney and go out and hire an atorney. Not that I am against that, but I believe that the courts will then become used by defendants who do not need the services of attorneys in simple matters. And if you check, I'm only making a guess at this, but I would say in the present minor courts only about 10% of the people appear with attorneys. If this is turned into a Court of Common Pleas, we have one now in effect which is in essence the present appeals court for the present minor courts, you check the records there, you will see that there is 90% appearance by defendants with attorneys. And as I said before, I am not opposed to that

34.

Judge Santaniello continues: but I am thinking of the people who have to go to this expense in many cases, perhaps unnecessarily so. I will say this again although it was mentioned by one of the preceeding speakers. Small Claims court is another court , it's a branch of the Municipal - Court, jurisdiction I'm sure you Gentlemen are well acquainted with. That court in my particular town now meets at night. It is a layman's court, in fact all rules of evidence practically go out the window in settling back yard disputes. Now I don't think that these disputes should be taken before the Court of Common Pleas by any means. I think they should be settled where they are settled right now. People sit down around a table, discuss the problem and the judge tries to come to some equal decision. In conclusion I want to say this, that there is no question about efficiency, the convenience - and economy of the present court set-up, whether it be the minor courts, the Justice courts, or the Probate Court. There's no question about it. I think all you Gentlemen are aware of that. As I said before, one person said to me - that the judge of this court is not rendering a fair decision, that will be said of any judge no matter what court he is in and in my opinion I do not believe that the present set up be changed unless there is a case against it or if the number of appeals taken is definite proof that there is no case against the present court set-up in the State of Connecticut and I urge the committee to keep the status-quo.

Reverend Louis Tilson, Roxbury: I am speaking today not because I am a Clergyman and not because I happen to be a newly elected Judge of Probate in one of our smallest districts, but as a citizen of the State of Connecticut and I want to speak primarily from the standpoint of our local small communities in this matter. The question has been raised as to the competence of local citizens to act as judges in our courts and further the competence of layman to act in such capacity. There is ample evidence that persons have rendered an excellent service over the years to their fellow townsmen, - that they have been confident and conscientious persons whose major concern have

35.

Rev. Tilson continues: been service in the interest of the public rather than monetary rewards. They have the confidence of their fellow citizens who have elected or chosen them. There is no guarantee that persons appointed otherwise would serve the public better or that lawyers as such are as well, or better qualified to perform these services than layman are. It is the integrity of the individual which is of paramount importance to our citizen and the most valuable contribution a judge can make to his community is that of his knowledge of the local situation. No judge who is not living in a community can possibly have the understanding of the situation, the knowledge of the peoplem the questions involved that a local resident has. Now we can't expect that the visitation of a community on a periodic basis or the necessity of carrying a case to some area point would be as helpful to our citizens in local communities in giving them prompt action, convenience and a minimum expense. One other thing that I would like to mention is that we could never expect the judges on an area basis to have the intimate knowledge of people in their circumstances which has heretofor especially in our Probate Courts, led to the reduction or complete ommission of all costs whatsoever for those who are least able to pay. I would like to submit a more complete statement.

Chr. Scanlon: Thank you. I'll ask again that if you confine your statements to new material we can probably get around to everybody that wants to speak today.

Judge Pickett, Washington: The population of my town is about 2,300. We can brag in Washington thatbwe are the first town in the United States which was incorporated and named after George Washington. I have been Trial Justice and Justice in Washington for approximately 20 years. Judge Carmody has alraady touched on many things which I was going to speak about, but I don't want to only speak as a judge, I want to speak as a citizen of this State. This matter before you at the

36.

Judge Pickett continues: moment Gentlemen, is very, very important. It is too important to be by-passed lightly. Everything should be weighed very carefully. I'm speaking more as a citizen in protesting to this bill, as far as the lower courts are concerned. I'm not worried about losing my job, if you want to call it a job. For some of you who have not lived in a small community, I lived part of my life in New York, I spent the last many years in Connecticut in a small community and I have never been happier in my life. I want to tell you that to live in a small community is to be part of that community. This matter dealing with courts to me is not a matter of a job, this to me is — a civic duty as a part of that community and when I took this assignment — some 20 years ago, I made a very definite point to meet all the Fathers of our community on all boards and on both parties, and I told them at that time that whatever my action in the court would be it would be my own, guided by my own conscience and I would accept no suggestions and I would answer to no push-button system from either party or anybody in the town. They told me that that was the way they wanted it and Gentlemen, that's the way they have gotten it. I don't believe I have had over 6 appeals in all pertaining to my 20 years. I have never lost but one of my friends, but that has not worried me, because I did what I thought was right. If he didn't go along with me, that was just too bad, I still will not change my mind. When a man comes before me I don't care whether I know him, I don't care whether he is white or black my duty is to do what my conscience tells me to do. Now if I make any reference to lawyers, please don't misunderstand me, I have two in my own family, I studied law myself, very briefly, I didn't get very far, because circumstances took me out. But the only difference between the established person and the lawyer is—we might say a mass of technical cob-web. Even the lawyer who is doing his job will be guided by his conscience and that alone and not by any technicallities. I was here at the meeting on the 9th and it's natural that

37.

Judge Pickett continues: I resent some of the things that were said, but I won't go into them. They mentioned of course the ice-box, etc. The only thing I couldn't figure out was why they forgot ship sales. I don't think that these remarks were humorous. I don't think that's the way to settle a question as important as this, not by jokes, it's no joke and I don't think they're to be alughed at. I think some of the remarks made at the last meeting were ridiculaous and not worthy of being heard in that chamber. I don't like the court bill, because I think one thing that it does is take away a part of the voice of our people. Our great State was founded on that very thing and I don't think that now or any other time that any part or any voice of any people in any community should be taken away from them. I think that that is the whole thing. In fact your little community and there are 169 of them, your small community Gentlemen is the cornerstone of your State and just as strong as your community is so will be your State. And you listen to what these people in these communities have to say, you might learn something even if you aremembers of the Bar and that is no reflection but it is a fact. Now they did bring out of course all the closet-skeletons, political pressure. I told you that when I assumed my office I made sure there was no political pressure and I stand here before you and God All Mighty and tell you that I have never in my 20 years been approached by anybody to do anything other than what I thought best, and I can tell you right now, it wouldn't have been healthy for anyone to try it. That's the way I feel about courts, now that's one example of the feelings in the small courts. We want to hear some from the small courts, we'vehard a lot from the big courts, and it hasn't all been good, such as penallizing a man who comes into to plead guilty, who ever heard something so ridiculous. Now they tell us times have changed. Well that's certainly the case, we know that you don't see any ox-carts coming down Main Street with a couple of farmers from out-of-town, that same fellow today is hopping a plane to California. We know times have changed, but have you changed

38 7em

Judge Pickett continues: your moral code, your standard of living, your form of worship - NO. There are somethings Gentlemen, you can't change, the way you change your underwear. The League of women Voters, I don't know, I'm not going to say anything about them. You all know that our jurisdiction is very limited and it doesn't require technical knowledge of the law. As I said before, we're guided mostly by our conscience and common sense. This question is before the House, because the House, here and there has a dirty closet and I can assure you that anybody with any common sense would not burn the house down, but clean the closet. I say let us not burn the house down, the system is not so bad, it just needs a little cleaning. If at anytime this matter of insistence of legal minds in the courts comes through. I think they should remember that in every little town we have our own lawyers, and when that time comes if it does become necessary, consider the town and give the people of the town the chance to select one of their own lawyers to handle the courts. Wehave four in our own town, and our people will make their own selection and I think that's where the choice is to be made. There's some talk about compromise. Remember if a thing is wrong, it's wrong, there's no such thing as compromising morals. May I touch on Probate for just a while?

Chr. Scanlon: You may touch on anything.

Judge Pickett: I had one contact with the Probate Court in our town and I found and realized at that time how handy and what a nice workable system it was to be able to in my own there was a man whom I knew to settle the Probate works that I had. In closing I just want to say I thank you Gentlemen for this opportunity to express myself and before I close I would just like to say let us keep this State a Government for the People, and of the People and by the People and nobody else. Thank you.

Irving B. Rappoport, Attorney, Bridgeport: I am just going to confine my remarks to one small aspect of this court reform bill. The

39.

Attorney Rappoport continues: court reform bill as I understand it has one of the principle clauses for the start of it for the backlog of cases of our Superior courts of our principal counties. One of the things that court reform bill aims to do is abolish the Justice of the Peace court I happen to have fair knowledge of the workings of the Justice of the Peace court. I have talked to other attorneys who also practice in Bridgeport and it would appear to me based on my own volume of cases and other volumes of cases and the projecting it thrououghout the State that there would be probably a total volume of 100,000 cases that comes before the Justice of the Peace each year. And that is a conservative figure. If this court reform bill passes, what we are now having in the Superior Courts, they're going tohave even more so in the new Court of Common Pleas that is proposed. It is difficult enough for a person to wait 3-4 years in the Superior court over a relatively large case, but when a person has to wait that same length of time in the smaller courts for a much lesser sum, it can become quite agonizing. Now, we're talking about costs of government and the increase of costs that we must sustain every day and I think that this present bill is going to go beyond - all realms of our imagination in increasing our costs here. Add to the present Court of Common Pleas the 180,000 cases that Judge Carmody has spoken of as being returned to the Justice Courts, add another 100,000 cases coming in from Justice of the Peace Courts. You can well imagine that the cases there will be totally unmanageable by the court and to administer it properly would call for numerous numbers of judges and we would find ourselves farther behind the proverbial eight ball than we are today. I think if we are really sincere about this court reform business, we should start at the top. If we're not worried about expenses of administration let's put more judges in the Superior Court and places where it's needed. Thank you.

William Morgan, Jr., Trial Justice, North Stonington: I have a few remarks to make, most of this is repititious because Judge Carmody has put it very well, and I might say right here that here is one trial justice

40.

Trial Justice Morgan continues: who is definitely along with him in his remarks and all for the point of making our system better. I have a few things to say. At the Hotel Statler, May 5, 1958, one of our yearly assembly of Trial Justices, there were several speakers present, one of them was a representative of the Commissioner of Motorn Vehicles, one a representative from the State Police and one representative of Probateion Department. I sat and I heard these men speak as to the feelings of these different departments. They commended the Justice Court on the work that they were doing atthat particular time. Now in 1957 as has been said here, the General Assembly enacted Public Act 651 giving tremendous administrative authority to the Chief Justice of the Supreme Court of Errors.— Now we know very well that we are understaffed, and we feel that we have not — slipped. That is the reason I am speaking in defense of a system. In our town, we have a court that has been praised by the State Police, lawyers and citizens and we have a name down there for never fixing a case. I only mention this about our own court because I feel that you can pick this out of many of the Justice courts. Ours is not up here to be talked about. I think that it's all of them. Courts should not be considered money-making institutions but our Justice courts operate at a minimum with no expense to the town and what will be the cost of the-new system — Money to be recovered where - by additional taxes to our towns. Appointments in Justice Courts are one thing that has been quite interesting to me. I don't believe this has been touched upon too much. The average length of service is 8 years. This certainly is a tenure and it overlapps politics. I have benn by Boards of Selectmen with Democratic majorities and with Republican majorities and the trial justice before me was also. I believe this will be found in a good many of your trial justice courts. At this time, I have some papers to present to you, one is from Ernest L. Johnston, Chairman of the North Stonington Democratic Town Committee and he makes his views known as to the Justice Courts, its appointments, the other one is so brief I"m going to read it: I would like to register in favor of maintaining

41/
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Trial Justice Morgan continues: the Trial Justice Courts in the State. In our town the previous Trial Justice served for thirty years, whihh should prove that the trial justice is not-a political appointment in our town - Ralph Eiman, First selectman. It has been said that the Trial Justices are mostly all laymen and they try a case involving a customer, putting a great strain on impartiality. Can it be said that the $15,000 or $14,000 judge belongs to a church, and organization, he has neighbors, he has friends, and I cannot see how anyone can be completely isolated from impartiality. It has been suggested that all judges and prosecutors, court clerks be lawyers. I can see justice in the ultimate result if the defendant is a lawyer. Our Justice courts have served us for years, they are definitely our Home Rule.

Irving T. Shubert, Trial Justice, Westbrook: I am here to register in opposition to all the bills that are presently before this committee concerning court reform and court reogrzation. There is no denial of the facts that all of our courts need improvement and we are not basing our - opposition on that fact. We are objecting to the methods contemplated to bring about the improvement.

Shr. Scanlon: Sir, I don't mean to deny you your right to speak, but if you are going to read us a statement, we'd appreciate your filing the whole statement with us and briefly telling us what's on it.

Mr. Shubert: We're protesting against any effort to destroy our present court system. I'm fearful that it will be a sorry day for this State if our Legislature allows itself to cram this type of legislation down the throats of our constituents. The passage of these bills would not only destroy our courts syetm that is designated for the convenience of the common people, but it would also take away the court revenue on which many of these towns depend to keep the taxes down. Most important to my mind is it will create courts which are brazenly monopolistic having entirely no regard for the rights and privileges of the common people I positive that if breed and political preferment the present court systems can

Mr. Shubert continues: be improved within the structure of their respective systems without the destruction or abolishment of any one system. The Trial Justice Court system with which I am most concerned seems to have been the target for most of the unfair publicity all during the last election campaign and up to now. the propaganda has gained inmomentum, except for one editorial in last Sunday's Hartford Courant, most of the newspapers have blackened the trial justice system so that now to the uninformed, we are the lowest of the low. It is almost unbelievable to observe the tactics of some groups of greedy people will employ to legislate these bills that are designed to usurp the rights and privileges of our townspeopel. a mere comparison of the financial cost between the new system of proposed common pleas courts and the improvement of the court now in existence should be sufficient to decide the vote of the conservative legislature. The abolishment of the minor courts and the instituting of the new system would cost the taxpayer an additional 3 millions of dollars at the start. I'm sure that improvements to our present courts can be established without this added expenditure of money. Our proponents, most of them members of the Bar, offer strenuous objection to the fact that some of the trial justice courts are staffed by layman. The mere fact that a man has studied law and has passed the Bar examinations does not - necessarily give him the edge on competency or intelligence. speaking personally in our own court at Westbrook, my prosecutor and I have had 25 years of experience in the Police profession. We consdier that we are as equally familiar with criminal law, rules of evidence, and court procedure as the average attorney. There may be many other courts functioning under similar conditions, therefore I would advise that the competent qualified layman not be excluded from the Trial Justice Court system. I'm sure that our courts could be improved by requiring all Justice court officials to attend periodic seminars on court procedures, rules of evidence, criminal laws, and other related subjects designed to make the necessaryn improvements in our court system. Because this would help, the cost should be borne by the towns in the same manner as those for Town Clerks, etc

Mr. Shubert continues: Some responsibility for good courts lies with the appointed authority. They should be extremely cautious in their appointments, giving serious consideration to the qualifications of the individual before making the devision. In discussing the matter of politics in our courts it must be remembered that practically every judge in the judicial system is holding office through political preferrment. Threfore, the shadow of politics actually covers the entire judicial system. No judge with honesty and integrity is ever been known to allow politics to sway his decision, therefore if serious consideration is given when making appointments, the evils in our courts will be done away with. In conclusion I will say again that I am firmly convinced that the abolishment of our trial justice court system would be a mistake and a disservice to the taxpayers and citizens of Connecticut and would deprive them of their inalienable rights. Thank you very much.

Ira Wilcox, Mansfield: I am here today representing the Connecticut State Grange by the request of the regular representative because he couldn't be here. I'm here also as a member of the Board of Selectmen from Mansfield, and above all I am here as a citizen of Connecticut. All three categories I want to say that we agree whole-heartedly with all the arguments that have previously been presented. I know they have been stated far better than I could state tehm. It seems to me that this reform as posed is a matter of centrallization. It wasn' too long ago we heard about Home Rule. I can't see how the two of them go together. Let's keep that Home Rule so far as these courts are concerned. We have heard today that there are short-comings and undoubtedly that is correct. Why condemn the entire system because of some short-comings there may be in a few places. If I had a barrel of apples and in that barrel there were some bad apples, I wouldn't throw the entire barrel of apples away. I don't believe that if we have an automobile on which there is one bad tire, we would discard the entire automobile. We would take care of the matter that is wrong. So if there are short comings in our present

44.

Mr. Wilcox continues: system, let's try to correct them. We have had no complaints in our town of anything wrong with either the Justice Courts or the Probate court. I personally have had three experiences in the Probate Court and I know being ablento appear before someone whom I knew and who knew of my situation was much better than having to travel someplace to meet a man at his convenience. So, I say let's keep the things the way they are. If there's anything wrong, let's correct what is wrong in the present system rather than try to discard the entire system and also appears to me that if we do try to discard this system and do according to what they bills ask it certainly is going to increase taxes. I believe that is one thing that the present administration has stated that taxes were not going to be increased. I can't see how it can help but be other wise if this happens. And, lastly I think Ladies and Gentlemen of the Committee, let's remember that once in Boston Harbor and let's bear in mind why that famous Tea Party was held, and try to keep our taxes down so the people of the State of Connecticut can take care of them. Thank you.

Tom Moore, Attorney, Bridgeport: I am not now and never have been a member of a political party. I have never held and do not now hold any official appointment or office in the State or local government. I am just a practicing lawyer trying to earn a living. And, that's why I am here. I think I am the only fellow that came up today who is here to protect a vested interest. The nasty old vested interest. I'm just trying to make a living, that's my vested interest. These bills are going to make it more expensive to grant credit. To go into the credit line a bit, even though I am here to protect my own interest, there are better reasons than than why I am opposed to the bill. I am a member of the Credit Men's Association of Southeastern connecticut and a member of the Commercial Law League of America. I think that I know as much about credit as any lawyer in the Bridgport area. I have lived with credit for the past 8 years. Credit costs money.

45.

Mr. Moore continues: Also if you can't collect bills, honest debts from merchanidse and services rendered, you're not going to grant that credit. If it's going to cost more to collect those bills, even though you can do it, then it must cost more to grant the credit. So far the State of Connecticut in its wisdom has always made it very convenient for the credit grantor to enforce his claims against debtors. With these bills, it is quite possible, it looks to me as if the elimination of the Justice of the Peace as distinguished from the Trial Justice Court, I know nothing about them, I have never been in one, never had a case in a Trial Justice Court, but in regard to the Justice of the Peace Court these bills I see some of them eliminate the civil jurisdiction of the Justice of the Peace and they transfer it to other courts. The other courts to which they transfer it and some of the bills allow for the rule making powers of the judges or by other means to establish small claims courts. Now most of you Gentlemen, are lawyers and I hope most of you have sat in on sessions of Samll Claims Courts. You are familiar with the facts and the statute that requires a plaintiff must appear. How many times does a plaintiff appear? Seldom, so seldom that makes a lawyer's blood boil, because this is a favor as he as a lawyer doesn't get. The business man in the town who is putting his collection cases into the small claims court and getting a card back from the court, saying the plaintiff must appear, either does not appear, or if he does appear, he appears by sending his little 16 yeardld Secretary in to argue the case for him. Someone who is receiving a compensation for appearing in court, something which the state law says only a lawyer can do. They don't appear in the most part, because I was just in one of the small courts in a town next to Bridgeport, Monday morning and only about 3 plaintiffs appeared in that court and all the rest did not appear and yet they got judgments by default, because the defendant did not appear. Nobody appeared. The card was there, the clerk read off the name, the judge said judgment for $24.18 and $1.50 cost and nobody was there, but did that judge know if that bill had not been paid, he didn't. The lawyer can't get

46.

Mr. Moore continues: that, he has to travel up and down the turnpike and appear no matter what time the court is in session. So if we're going to expand this beautiful Small Claims court system, what's the result: The lawyer is out of another source of business and on top of that perhaps more unjustice is done than you have. What about the expense? If the rule making power of the small claims court is put under jurisidction of Common Pleas, it is not certain that the cost in the Court of Common Pleas will still be as low, because as you know in the Justice of the Peace Courts in Connecticut today the average lawyer does not pay an entry fee. You know that as practical lawyers. It's worked on a contingency and you know that too as practical lawyers, the writ comes in and it is processed in due process of law except for one thing, that entry fee is not paid, if it did have to be paid, who is going to pay it, the lawyer, he can't afford it and also he is prevented by ethics, so he has to charge his clients for the entyr fee. He doesn't have to today under the Justice of the Peace system. But if they put us all into a Common Pleas Small Claims Court, everybody is going to have to get that dough up on the line and that means it comes from the clients and where does the client get it, he gets it from ladies and housewives and his customers like you and I, who have to pay for the merchandise. It just means increased costs all around. In regard to the Justice of the Peace also, there is very little injustice if any. I have spent 7 years with many thousands of cases, never have my complaints not been able to be straightened out, because there is always going to be a complaint one way or another. Gentlemen, you are lawyers, please follow the rules of ethics in determining this question. Let the plaintiffs in this matter bear the burden of proof. The court system that we have has worked for so many centuries to the advantage of our citizens and of our forebearers in England. Follow the burden of proof rule, it has sustained the burden of proof, but if it hasnt then change it, but do not change something whih has worked over the centuries. Thank you.

47.

John Swanson, Trial Justice, Bolton: I believe the Justice Courts should stay the way it is. As far as the higher courts, I don't think I'm qualified to speak on it. I also agree with Chief Trial Justice on his recommendations 100%.

Rep. Morris B. Hogan, Burlington: I am here representing not republicans or Democrats but both. There is not one single person in my town who has ever indicated a desire to me to have the court system changed and I might say both republicans and Democrats have indicated to me a desire to keep the courts as is. I have had some political experence in the small towns. I am chairman of the political committee for 28 years and I have always insisted that we have a good court. We had a good court before I became interested, and have had a good court ever since. And possibly from listening to some of the testimony of some various trial justices that are here, they all maintain there is no fix, that's no reason to do away with the courts, but I as political leader in my town have always insisted that we have a good court in town, and if you have a good court, there's no reason to fix it. If your court is honest, if it is competent, and capable, what more could you ask. I would assume that you gentlemen here are political leaders in your towns, if not certainly, you are close to political leadership, otherwise you would not be elected to office here. And if your court system is not good, if you feel it's not good, it's not the system it's the appointees, and why don't you as political leaders in your town go back to your town and if you have a situation that needs cleaning up, why don't you clean it up, that is what I have always felt should be followed. We have good government in our town and its because the Republicans and Democrats have always worked to see that whoever is elected is capable. The only reward we may get is the satisfaction of knowing that we as political leaders in our town are conducting a town government that is good for us and good for the people and that I might say is a substantial reward. I urge you people to go back to your own towns and clean up your own situations.

Chr. Scanlon: The hearing is closed on these bills.

H-48

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1959

VOL. 8
PART 10
3988-4479

FPD
115

Question is on the adoption of Senate Amendment Schedule "A". All those in favor say aye, opposed no. The ayes have it. The Amendment is adopted.

Question now is on the acceptance of the committee's favorable report and passage of the bill as amended by Senate Amendment Schedule "A". Will you remark? The gentleman from Vernon.

MR. HAMMER OF VERNON:

Mr. Speaker, I urge the passage of the bill as amended.

THE SPEAKER:

Will you remark further? All those in favor say aye, opposed no. The ayes have it. The bill is passed.

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

I move suspension of the rules for immediate transmittal of this bill to the Senate.

THE SPEAKER:

Question is on suspension of the rules for immediate transmittal of the bill to the Senate. All those in favor say, opposed no. The rules are suspended. The question now is on immediate transmittal. All those in favor say aye, opposed no. The ayes have it. The bill will be transmitted.

THE CLERK:

On page 54 of the Calendar, Order of the Day for Thursday, May 21, 1959, at Noon. Calendar No. 1179. File No. 570. Substitute for Senate Bill No. 492. An Act concerning Family

FPD 116

Relations Sessions of the Superior Court. Favorable report of the Committee on Judiciary and Governmental Functions.

THE SPEAKER:

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, I move acceptance of the committee's favorable report and the passage of the bill in concurrence with the Senate.

THE SPEAKER:

The question is on the acceptance of the committee's favorable report and the passage of the bill in concurrence with the Senate. Will you remark?

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, this bill, instead of setting up an independent family court, provides for an annual family relations session held within the present Superior Court setup. The family relations sessions are to hear matters involving divorce; legal separation; annulment; alimony; support; custody and change of name; complaints for change of name; civil actions for support; habeas corpus re custody; habeas corpus re mentally ill person save criminal offenses; probate appeals dealing with adoptions, guardians, custody of minors; conservators; commitments; appeals from juvenile court, and all other matters dealing with family relations.

A change in the present law is made concerning appeals in juvenile cases. Under the present law these appeals are heard at Superior Court sessions held solely to hear juvenile

cases. Under this proposed bill these appeals are to be heard at the family relations sessions and the trial is to be de novo.

Also included in this bill is an increase in the salary of the Juvenile Court Judges from $13,000 to $15,000, and the bill provides that these Juvenile Judges shall not engage in private practice.

It is felt that while this bill might not in its present form meet perhaps everything that some people would like or would desire insofar as creating a separate Family Court is concerned that it's a step in the right direction, and the committee voted favorably and would, of course, urge favorable consideration of this bill.

THE SPEAKER:

Question is on acceptance of the bill. The gentleman from West Hartford.

MR. SHULANSKY OF WEST HARTFORD:

Mr. Speaker, I rise in opposition to this bill. I should like to preface my remarks by saying that I have no objection to Sections 19 through 23 of the bill. These have to do with salaries, retirement benefits and so forth of the juvenile court judges. They're not technically a part of this Family Relations Sessions bill, and the distinguished majority leader did not refer to them in his remarks. They're not objectionable to me. The remainder of the bill, however, is objectionable to me---not that it's a bad bill, but that it's a nothing bill.

Mr. Speaker, in 1942 the Judges of the Supreme Court under

FPD 118

their rule making power adopted a series of rules creating "the domestic relations sessions of the Superior Court". These rules were approved by the general assembly as provided in what is now Section 51-14 of the general statutes, and with such approval there is judicial statement that these rules have the force of law. Now, these rules appear in our Connecticut Practice Book, but it's not necessary for each of you to have the Connecticut Practice Book to read them. You can read them in File No. 570. Every single provision of this bill is merely a restatement, and I repeat----a restatement taken almost wholesale out of a series of existing rules adopted by our judges in 1942. We've had them for seventeen years! They've been constantly revised and amended.

And when the distinguished majority leader says that there has been a change, for example, in the juvenile court appeals in that they're to be heard de novo.....Rule 257, for example..... "The hearing shall be a trial de novo" and so forth. That was adopted in 1942!

Looking at this bill, Mr. Speaker, Sections 1, 2 and 3 do not add in any respect to any existing provision. The long list which the gentleman from New Britain read off is a list of those matters which are now handled by the Superior Court.

Section 4 of the bill is Rule 247 of the Practice Book; Section 6 is also Rule 247; Section 7 is Rule 249 and so on..... Section 8, rule 250; Section 9, rule 251; Section 10, rule 252. And I don't mean, Mr. Speaker, that these sections are based upon existing rules sections. This statute is taken almost verbatim

FPD 119

from rules which we have had for seventeen years. This bill does absolutely nothing!

Those who believe in a real family court cannot honestly support this bill because it accomplishes nothing. It is, as I've said, a nothing bill.

I have no doubt that if this bill passes the majority party is going to trumpet the world that they've achieved something monumental in the cause of family courts or that---and I prepared these remarks in advance, and the distinguished majority leader said it----a great step forward has been taken. Now, this bill is not a step forward, and I'm fearful that it might be a step backward. First we're going to freeze into statute rules which have existed since 1942 and which have been constantly revised and improved since then so that any change would have to be made by this general assembly, and if the judges wanted to make further revisions and improvements and corrections they'd be precluded from doing so because these rules which they've adopted now have the force of statute. And secondly, if this legislative vacuum is enacted, it's going to irretrievably set back the good work and the tireless efforts of those who have struggled for legislation creating real family courts.

I cannot support this bill. It does absolutely nothing. It changes absolutely nothing.

Now, the argument may be made that in the small counties now there will be domestic relations sessions as we have them in the large counties as provided by the rule, but in fact, Mr.

FID 120

Speaker, the same judge who is hearing all the other civil business is going to be hearing these things in the small counties and it will not make any single practical change in the way these matters are handled.

I oppose this bill because it accomplishes nothing.

THE SPEAKER:

Will you remark further? The gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, I too oppose this bill for the reasons which the gentleman from West Hartford has so eloquently put forth to you.

This bill obviously makes no change in the existing method for handling the various family matters which we are concerned with here today, and it does real damage because it's an effort to mislead the people into thinking that some honest reorganization of the Judicial Department is taking place to provide a real family court.

Now, having said that, I should like to offer an Amendment to this bill. This is a lengthy amendment. It consists of six and a half pages of typing. Now, I'm perfectly happy to have the Clerk read the amendment if you like, but I think perhaps we can save some time if I go through the amendment and point out the pertinent parts of it to the members of this House.

THE SPEAKER:

If there are no objections, we'll waive the reading of the Amendment. If not, you may proceed.

FPD 121

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, what this amendment does is to strike out the entire act, proposed act here which is in our files, and substitute in lieu thereof what I believe to be a true and honest family court.

It defines or it amends Section 51-1 of the present general statutes which is the definition of the judicial department and it adds therein "the family division of the superior court". It provides that there shall be a chief judge of the family court division of the superior court, and it provides that this division shall consist of seven judges. Four of said judges shall be new newly appointed superior court judges, and three of the judges are proposed to be the existing juvenile affairs judges.

It provides that there shall be at all times, within the family division, three juvenile affairs judges, who shall be appointed from the complement of the family division judges by the chief justice and who shall retain the designation of juvenile affairs judges for the duration of the term for which they're appointed to the superior court.

The jurisdiction of the family court is as follows: (a) Of divorce, including alimony and the custody and support of minor children; (b) Of legal separation; (c) Of annulment of marriage; (d) Of judicial consent to the marriage of a minor; (e) Of adoptions; (f) Of proceedings, civil and criminal, to enforce support obligations, including proceedings

FPD 122

under the Uniform Reciprocal Enforcement of Support Act; (g) Of proceedings to establish the paternity of a child born out of wedlock; (h) Of the appointment or removal of guardians and conservators of the persons of minors and incapable persons; (i) Of commitments, except that the superior court and the court of common pleas may make commitments as provided by law of persons within the jurisdiction of such courts because accused of crime; (j) Of proceedings concerning uncared-for, neglected or delinquent children; (k) Of violations of laws for the education and care and protection of children; (l) Of habeas corpus proceedings involving children under eighteen years of age; (m) Of change of name of any person, and (n) Of the offenses, criminal offenses under the general statutes, including causing dependency or delinquency, cruelty to persons, causing injury or risk of injury to children, abandonment of a child, abduction of a child by either parent, and unlawful exhibition or employment of a child.

Now, I'd like to pause at this point and point out that these are all of the various family matters which presently come before many different courts of our state. Divorce, separation and matters of that kind are presently handled in the Superior Court. Adoptions, commitment of minors, appointment or removal of guardians are presently handled by our probate courts. Reciprocal enforcement of support is presently handled by the Court of common pleas. Other support obligations are presently enforced in our local town and city courts, and of course will be

FPD 123

taken over into the new circuit court unless they are provided to be taken up in this family division. Then the various matters that have to do with the care of children are presently handled by our juvenile courts. This provision would bring all of these related family matters together into one single court which would have full authority to deal with all of the aspects of family life and family problems.

The family division, family court, as we propose it would for the purpose of transacting business be divided into three districts; the First District encompassing the counties of Fairfield and Litchfield; the Second, the counties of New Haven, Middlesex and New London; and the Third, the counties of Hartford, Tolland and Windham. These are the present districts.... the districting as presently used in the juvenile court situation. The proposal also provides that the districts may be revised or modified by the judges of the supreme court whenever required for the efficient operation of the court, thus providing a certain degree of flexibility. And it also provides that there may be multiple offices of the court within each district and that each of such offices shall be staffed by a clerk or assistant clerk.

We provide that there shall be a term for the transaction of family division business on the first Tuesday of every month and that sessions of the court shall be held at least three times a year and the court shall sit for the transaction of family division business in each of said districts at such times and for such duration as shall be fixed and determined by the judges of

t

FPD 124

the supreme court, provided that the court shall be deemed to be in continuous session for the purpose of transacting business pertaining to juvenile affairs.

Now, this amendment provides that the juvenile affairs judges, those judges who are designated as juvenile affairs judges, shall preside at all hearings regarding juvenile affairs, and that at all other sessions of the family division the family division judges other than the juvenile affairs judges shall preside. It further provides that the family division judges may be assigned to other duty within the Superior Court and that the chief justice may, if business requires, assign additional judges from the present complement of judges to the family affairs division. However, the family affairs judges would retain their designation as family affairs judges even when sitting on other superior court business.

Much of the rest of this proposed amendment deals with the detail of setting up such a court. We provide for the proper venue of matters, the courts to which matters shall be brought. We provide that the quarters and furniture of the juvenile court shall be transferred to the family division, and then we provide that the judges of the family division shall appoint such staff as in their judgment is needed for the operation of the court under the provisions of this act, including clerks, assistant clerks and probation officers, and their supervisors, counselors, referees, case workers, investigators, physicians, psychologists and psychiatrists, nurses, prosecuting attorneys and public

defenders. All of these appointments are subject to the approval of the justices of the supreme court.

We provide that the probation personnel shall be selected from lists prepared by the state personnel division. We provide that they shall make such investigations and reports as the court directs or the law requires. We provide that all such reports shall be available to the parties in interest and to their counsel....except in the matters of the juvenile affairs involving uncared-for, neglected or delinquent children which reports would be open only to those persons who have a proper interest therein and upon the order of the court. This, of course, is the present law---the theory being that the probation reports on juveniles should not become general public knowledge, but we do provide that the probation reports on all others within this division will be available to the parties and to their counsel.

We provide as is the case in the other branches of our judicial system that the judges of this division shall meet in Hartford in June, that the presiding judge shall establish proper notice and that they shall at these annual meetings work out their rules and regulations.

The amendment provides that there shall be no right to trial by jury in criminal matters where the maximum penalty is a fine of fifty dollars or a jail sentence of thirty days or both. In all other matters parties may demand the right to trial by jury where they presently have a right to trial by jury.

The family division may, of course, grant new trials and

rehearings when new evidence is brought to their attention.

Any appeal from any final decision of the family division would be taken directly to the supreme court of errors as is the case in our present superior courts. We make provision for the effectiveness of an appeal in the uncared-for, neglected or delinquent children field----in effect, restate the present law as to suspension of the order of the court.

We provide for the method of service of process for the record keeping of the division and for the transfer of matters presently pending before other courts which would now become properly triable in this new division.

Finally, the term of office of the seven new judges is set to commence at such time after the effective date of the act and prior to July 1, 1960 as the governor may provide in his nominations to the general assembly.

Now, I recognize that's a rather lengthy amendment and that it covers a great deal of territory, but I felt it necessary to go through it with you in some detail so that there could be some understanding of what the bill does.

If we are to have a family court in Connecticut, it ought to be a true family court capable of handling all of the family problems which as of this date are spread through many courts in our system. It ought to be a court with sufficient staff and personnel to permit the investigations that are necessary in family matters and to perhaps embark upon the rehabilitation of families who have found themselves in difficulty for one reason

or another. There's not much evidence, statistical evidence, that I have ever been able to find to which you can point and say with a family court you have X number less divorces, or you have a reduction in delinquency or anything of that kind. I don't know and I couldn't stand here and allege that such facts can be proven. I do know that back in 1957 I wrote to Judge Alexander who is the judge of the family court in Toledo and perhaps the number one authority on the subject in the country and that his response to me showed that of the number of divorce petitions filed in the court a very substantial number ranging from one-third to one-half never came to trial. This, it seems to me, is at least some indication of the effectiveness that this kind of court can have in rehabilitating families.

I think I can safely testify from my own knowledge and experience in the law in Connecticut that no such ratio of withdrawal of divorce petitions exists in Connecticut. By andlarge once the application for divorce is filed, the matter is disposed of by the court, either pro or con the mover.

I have found in my practice of the law that one of the greatest problems a lawyer has....a lawyer who has a sincere desire to assist people who find themselves in difficulty in family matters is that basically he lacks the equipment to do any proper job of rehabilitation. The services that are available in that field today are scattered through the churches and various other volunteer groups. There is no official body capable of bringing to bear on families a certain amount of pressure and

a certain amount of expertise in efforts at bringing the parties back together. I have frequently felt woefully lacking when friends of mine have come to me as a lawyer....people that I've known for years who have gotten themselves into a hassle as husband and wife and whom I sincerely wanted to help to bring back together....finding that I as an individual was neither trained nor equipped to give these people the kind of counseling and advice they needed. I have seen marriages go on the rocks which I have honestly believed could have been salvaged had the proper services been available to help people.

I think that if we adopt this amendment that we will be doing the people of the State of Connecticut a real service in providing them with a forum in which all family matters can be heard and by providing them with the staff and assistance they need to handle these serious domestic problems.

Mr. Speaker, I respectfully and sincerely urge the adoption of this amendment.

THE SPEAKER:

The gentleman from Newington.

MR. SATTER OF NEWINGTON:

Mr. Speaker, let me first say that I join completely with the minority leader respecting his desires to create an effective family court. Let me further say that many of the problems which lawyers face in these critical family matters are extremely difficult to solve by lawyers and must be solved in a more complete way by the assistance of psychiatrists and

social case workers and others, and I join with him completely in his remarks in that regard.....but, let me further say this: This amendment which he has now presented to us is little more than a bill which the administration presented to the Judiciary Committee, Senate Bill 492, and the Judiciary Committee very carefully considered this matter and wanted very much to pass a bill similar to the one that is now being presented in the form of an amendment and we ran across a very serious roadblock, and the roadblock was a grave constitutional question as to whether or not this legislature could create a division of the superior court. We were told by no less an authority than the judges themselves that we could not do it.

Now, the constitution of our state is what the judges tell us it is and we can't substitute our judgment for those of the judges themselves on this matter. Believe me, the Judiciary Committee carefully considered this matter, and I can tell you personally that there is nothing more that I wanted out of this legislature than a good family court, and those who were on both the Judiciary Committee and the subcommittee of the family court know that I am speaking completely my feelings on this matter. Now, we found, as I say, that we couldn't legally do it, and consequently we have come forward with the bill which we have brought forward.

Now, I might add something further respecting the deliberations of the Judiciary Committee on this family court bill---- that the Republican members of that Judiciary Committee were not

FPD 130

at all unhappy with the fact that we abandoned the administration bill, Senate Bill No. 492. In fact, the Republican members of the Judiciary Committee, and my recollection is quite clear on this, were quite glad we had abandoned this project, but we didn't abandon it for that reason. We abandoned it because of the legal and the grave constitutional questions which it raised.

Now, I think that we have an amendment before us. I think it should be carefully considered. I don't think that the minority leader can seriously expect that we can determine this matter today, and therefore, Mr. Speaker, I move that this matter be retained and starred for action again next Tuesday.

THE SPEAKER:

Question is to have this starred for action for next Tuesday and retained.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, I should like to respond first of all to the constitutional question raised by the gentleman from Newington.

I'm well aware that lawyers differ as to the constitutionality of removing from the superior court jurisdiction which it has had since time immemorial, and I would point out to the gentleman from Newington that this bill makes a sincere effort to avoid the constitutional question. You will note that these judges are superior court judges. They are set up as a division of the superior court and that the possibility of transfer from that division to the remainder of the superior court exists.

Now, I believe that this meets any constitutional question. I think that the state bar association committee on court reorganization is also satisfied that this meets the constitutional question.

I would point out in addition that when we deliberate as a legislature we are not sitting as a constitutional court. If, obviously, if there is clear unquestioned unconstitutionality in an action proposed by this assembly I would be the first to oppose it, but where as here I think the constitutional question has been met...I think that we ought not to duck the answer to this problem by hiding behind an implied constitutional barrier. I think if we as the members of the Connecticut General Assembly believe that this is good legislation, if we believe that there is a substantial possibility that this is constitutional then I think we ought to face up to the issue and let the judges of the supreme court decide if we're wrong. I don't believe that they will decide that we're wrong. I think that they will find when they deliberate on this matter---if it ever comes to their attention---that the court created here is perfectly constitutional.

Now, as to the matter of retaining this amendment, if there is substantial feeling in the House today that time for study is required then I would not object to having the amendment printed and retaining. I would suggest that perhaps many of us are fairly familiar with the whole problem, that the proposal before us is reasonably clear, and if it is at all possible I would like to debate the matter today. I would like to have the

FPD 132

amendment adopted and then printed and then we can take action on the amended bill when it comes back to us.

THE SPEAKER:

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, I think, in reply to the remarks of the distinguished gentleman from Brookfield, there is feeling on this side of the House and I think there might be some feeling on the other side that some additional time is required. Of course this amendment was just produced here a short while ago. We've heard a very good explanation of it. We would like to see it in its entirety and have an opportunity to study it.

I can see no objection at all to having it perhaps ordered printed anyway, even though we don't adopt it, and then consider the amendment at the time that it's set down for our consideration.

I would suggest because this is such a far reaching amendment that it be starred for action for Thursday of next week which will give us ample time to study it and go into all phases of it so we will be thoroughly familiar with this amendment, and at that time we'll be prepared to take final action on it.

THE SPEAKER:

The gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, I have no objection to that procedure as outlined. We can have the amendment printed and placed in the

FPD 133

file. I would not, however, like to have this matter set as far ahead as next Thursday. We're getting rather close to the end of the line here. I would be perfectly agreeable to Tuesday.

THE SPEAKER:

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, that offer is the basis for a fair compromise. We suggested Thursday, they Tuesday, let's pick Wednesday!

THE SPEAKER:

The gentleman from Newington.

MR. SATTER OF NEWINGTON:

Mr. Speaker, I want to assure the gentleman from Brookfield that this desire to study this matter is in no wise an attempt to be dilatory. I want to tell him that if it's possible for us to create an effective family court constitutionally we want to do it. You have my assurance on that, Mr. Pinney.

I have to, however, slightly disagree with him when he says that we don't sit as a constitutional court. I think, however, when things are brought forceably home to us which raise grave questions as to constitutionality, and particularly when they're brought home to us by the very judges who themselves might well decide this matter, we have to give pause to them, and we would be really irresponsible as a legislature to pass a bill that we knew to be unconstitutional, but I am very willing to defer this whole matter and trust that possibly from conferences before Tuesday we can work this out, but I want to assure him

FPD 134

again we are very anxious if it's possible legally and constitutionally to pass a family court that we certainly will join with him in doing so.

THE SPEAKER:

The gentleman from West Hartford.

MR. SHULANSKY OF WEST HARTFORD:

Mr. Speaker, I was interested in the remarks of the gentleman, my good friend the gentleman from Newington who is concerned about the constitutional question involved as are we all and who expresses an intent to do everything possible to bring out a family court or a good family court proposal which would not conflict with whatever constitutional roadblocks may exist, and there is of course a difference of opinion on that, but I think it should be noted that there was offered an amendment to the constitution to the Constitutional Amendments Committee which is House Resolution 33 which would have solved all the constitutional problems involved and opened up the path to a real family court which was not brought out of committee.

THE SPEAKER:

The bill and the amendment will be put in the files and starred for action next Wednesday.

Before we go on to the Calendar, on May 12th a resolution was passed in the House setting up a commission to study the problems of youthful offenders in Connecticut and from the House two members were to be named. The Chair at this time would like to name to the commission the lady from Ridgefield, Miss Draper,

H-49

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1959

VOL. 8
PART 11
4480-5072

FPD
152

up the bills starred for action as of yesterday.

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

Well, Mr. Speaker, I'd already had an arrangement to take up the matters starred for action today and then we'd proceed to those that were starred for Tuesday. That was the arrangement that I had.

THE SPEAKER:

We will take up those starred for action for today on page 34.

THE CLERK:

Calendar page 34. Starred for action Wednesday, May 27th. Calendar No. 1179. File No. 1297. Substitute for Senate Bill No. 492. An Act concerning Family Relations Sessions of the Superior Court. Favorable report of the Committee on Judiciary and Governmental Functions.

THE SPEAKER:

The gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, this bill was partially debated last week. The committee's favorable report and the acceptance of the bill had been moved and an amendment had been filed and the adoption of the amendment had been moved, and I think we're at that stage of the proceedings.

THE SPEAKER:

Question is on adoption of House Amendment Schedule "A".

FPD
153

Will you remark? The gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, I would like to withdraw the present House Amendment Schedule "A" and offer House Amendment Schedule "B".

THE SPEAKER:

If there are no objections, House Amendment Schedule "A" is withdrawn.

Will the Clerk please read the amendment?

THE CLERK:

House Amendment Schedule "B".

THE SPEAKER:

The gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, I move the waiving of the amendment, and if you will give me about two seconds I will explain the very modest changes that occur in this one.

THE SPEAKER:

If there is no objection, the reading will be waived. The gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

There is no change whatsoever in the substance of the amendment.

After the amendment was printed some members of the State Bar Association's Committee on Court Reorganization reviewed it and suggested two or three technical changes all for the purpose of conforming the proposed amendment to the present statutory

FPD
154

provisions.

In the Section 1 we presently recite the current statutory provisions regarding the Supreme Court, Superior Court and so on and so forth and add to that a Family Division of the Superior Court. The new Section 1 eliminates the reference to the other existing courts and states: "There shall be a family division of the superior court and a presiding judge thereof appointed by the chief justice to serve at his pleasure."

Section 2, insteadof reciting the present compliment of judges and adding to it, recites: "There shall be seven judges of the superior court in addition to the number now provided for by the general statutes, who shall be designated at the time of their appointment to serve in the family division of the superior court.

The only other changes that occur in the new draft had to do with statutory references and I think that there's no necessity to belabor you with those. They're all technical in nature and have absolutely nothing whatsoever to do with the substance of the bill.

Now, Mr. Speaker, I spoke at some length on this matter last week, and I should like to review briefly a bit of the background as to why we're at this particular stage of the proceedings.

You will recall that there was offered to this assembly a bill, Senate Bill No. 492, which was alleged to be a family court bill. There was considerable discussion as to the merits

of that bill, and the gentleman from West Hartford pointed out precisely and in detail that that bill did nothing more than re-enact some existing law. It made no changes in the direction of the creation of a real family court. At that point we offered the amendment which is before you now, and I went through describing that in some detail.

I think I can boil down the description of the proposed family court embodied in the amendment quite simply. What it does is to create a seven man division of the Superior Court. This division will consist of four judges who will be designated as family affairs judges, and three judges who will be designated as juvenile affairs judges. The bill provides for the staffing that is necessary if we are to have a real family court in the State of Connecticut.

Now, I should like to give you a little background as to what I think a family court is, as to what it should be, and as to why we need it, and I think that I can offer to you some opinions of people far better qualified than myself in this field which I think you will find impressive. I should like to read to you first from an article by former Chief Justice Maltbie of our State Supreme Court of Errors. It was printed in the Connecticut Bar Journal issue of September, 1952. Justice Maltbie points out that there are a number of reasons why we should have a family court. He says amongst other things: "No defense can be made of the way in which our courts handle divorce cases today. Look at the sorry picture of a single judge in a

single day granting twenty divorces or more. Divorce is always the result of causes affecting the relationship husband and wife. Often trivial causes much exaggerated often causes which are curable or removable. What can a judge learn of these listening in uncontested divorces to three or four witnesses whose interests must lead them to exaggeration or even to perjury? Even when children are involved, how often how little use is made of the right of the judge to call upon investigators to ferret out the actual situation and so acquire a basis of knowledge as to their true interests, and this in the face of the fact which must be known to every judge who hears divorce cases that often the plaintiff consents to orders for the custody of children as a price for the defendant offering no contest, even though he or she knows that the agreement placed before the court is not for their best interest."

He turns to a second problem: "Consider the jurisdictional stratification in the jurisdictions of our various courts in dealing with family difficulties which often are merely manifestations of a fundamental problem, the family's failure as a unit."

And then to a third problem which is perhaps the essence of this whole proposal for a family court: "One of the outstanding difficulties in any attempt to deal in our courts with family relationships is that the problems presented are primarily and generally social and not legal, and the judge, outstanding in his ability to adjudicate the questions of law and fact presented in the course of ordinary litigation, may and often does lack the

FPD
157

interest and understanding of social problems necessary adequately to deal with family difficulties. It is a mistake to leave such problems to judges who are not socially minded. I can see no ground of hope for any reasonably adequate methods of meeting these problems until they are entrusted to judges chosen for their aptitude in dealing with derelictions in social duties and responsibility."

Now, I think this brief resumé of Judge Maltbie's thinking on this subject sums up quite briefly what I believe to be the true elements that are necessary in a family court. It must be a court of comprehensive family jurisdiction, a court to which all of the problems relating to family affairs can properly be brought, and it must be a court with specialized personnel--- personnel who are from judge on down through the various layers of the court, personnel qualified to comprehend the problems of families, to ferret out the difficulties, the causes of family problems, and to render help rather than a legal resolution of a family problem.

The outstanding family court judge in the country is Judge Paul Alexander of the family court in Toledo, Ohio. Judge Alexander lists fourteen reasons for the creation of true family courts, and I'll not go into these in detail but I think you ought to know what they are. First he says a court of this variety avoids conflicts of philosophy. The havoc that can be wrought in a single family by a conflict of philosophy may be difficult for some of us, some of you to understand, but I think

FPD
158

if you pause for a minute and think of the fact that we have family matters handled by all of our various strata of courts that all of them are oriented in different directions. Our town and city courts are presently primarily concerned with petty crimes, with traffic matters, and yet they handle a portion of family problems. Our Court of Common Pleas is primarily concerned with civil litigation and administrative appeals. Our Superior Court is primarily concerned with major civil litigation and major criminal matters, yet each of these courts has a portion of this bundle that is really the family. Obviously, there cannot be any degree of specialization or a lack of this conflict of philosophy that Judge Alexander refers to.

He says of course it avoids conflicts of jurisdiction, and this I've already alluded to in the philosophy question. He points out that it avoids a multiplicity of litigation, that it is more economical for the family. I hate to mention this, but he suggests that it even saves lawyers time and effort, and it saves court time and effort. It provides a common repository for family records. I think this is an extremely important matter to consider. A broken family usually reflects itself in various difficulties: juvenile delinquency, divorce, various problems that the....that are a result of the fact that the family is broken, yet presently there's no common pooling of the records of this family. There's no way to know, or for one unit to know what is happening to this whole family.

Judge Alexander believes that this encourages social agency cooperation,

FPD
159

that it tends to develop specialist judges, and I've already spoken of this, and this I believe to be of extreme importance. It develops more effective staff work. It makes for greater certainty. When you have a court which becomes reasonably skilled in the handling of particular problems it develops a philosophy of its own and those who work with it come to know what that philosophy is and know what kind of a reaction to expect from the court.

It helps the judge to avoid mistakes. He has the staff and the equipment to advise him, and he believes this court produces results in family rehabilitation.

Mr. Speaker, in the discussion that occurred here last week when we debated this matter partially, the question of the constitutionality of this proposal was raised. I'd like to make a few observations on that subject, if I may.

The constitutional question involved here is based upon the premise that the Superior Courts and the Supreme Court of our state are constitutional courts, and the constitution provides that they shall have the powers and jurisdictions which they held at the time of the creation of these courts constitutionally. Now, obviously when you take jurisdiction from any court you must consider whether this tapping of that jurisdiction will create an unconstitutional situation. The only place where this would arise in connection with the family court is in the field of divorce which is presently handled and has been handled for many years by our Superior Court, a constitutional court.

FPD 160

Whether or not you can take this jurisdiction away from that court depends, as I said, on whether or not it held the jurisdiction in 1818. Now, the fact of the matter is that in 1818 and prior thereto divorces were granted by the general assembly. The jurisdiction of the Superior Court in the field of divorce is one that has been conferred on it by this legislature,..... consequently it's obviously one that can be taken away. As a matter of fact, for the first thirty years after the 1818 constitution was adopted divorces continued to be handled concurrently by the Superior Court and by the general assembly. I ask you to consider parenthetically here what kind of a session we'd have if we were still granting divorces in this body.

I am satisfied on that basis and on the basis of the reasoning of the Walkinshaw case, which is the case which established the propriety of our Court of Common Pleas which, as you know, is a court set up by this assembly which took away a portion of the jurisdiction of the Superior Court, that there is really no question asto constitutionality. My opinion is buttressed by some other fairly distinguished people, a couple of former Chief Justices, the State Bar Associations Committee on Court Reorganization and its present chairman, Mr. McCormick, who has recently reviewed the bill and advises me that he considers it clearly constitutional.

I'd like to make one other observation on this general subject of constitutionality. I have found it, and I must confess I've used it on occasion, as a pleasant place to hide.

I can only define this constitutional question as a mask for underlying opposition to all family court and family division legislation and as an excuse for failing to do something constructive to achieve a long sought and beneficial improvement in our court structure.

I should like to make one other observation before I conclude on this. I don't claim to be all knowing or messianic and I advise the members of this House that I am and remain willing to entertain any suggestion that any of you have to improve this bill, any suggestion which you believe will strengthen the bill without taking away its essential character, and I leave that offer open to anyone who wants to take it up.

I'd like to wind this up by quoting again from Judge Alexander: "It is apparent that the family court because of its very nature has a greater impact upon the sum total of human welfare and happiness than all other divisions of the trial court combined, yet in most quarters it is still regarded and treated as an inferior court. However, it is all a matter of opinion or sense of values. Those of us who are impressed by wealth and gentility who do not savor the messes of masses of humanity will continue to regard and treat the family court as an inferior court, but it is safe to say that those of us who prize children more highly than chattels, who put family life before fortune, who value people above property, who prefer healing to hurting, who think human welfare more important than wealth and who comprehend the imperative importance of buttressing

the stability of the family, such of us are apt to treat the family court not as inferior but as superior in fact if not in name.

I urge the adoption of the amendment. (applause)

THE SPEAKER: (Mr. Sheehan of West Hartford in the Chair)

The question is on the adoption of House Amendment Schedule "B". The gentleman from Berlin.

MR. McMAHON OF BERLIN:

Mr. Speaker, I rise to support the amendment.

My first reason in supporting this amendment is that number one promise I made to my constituents in Berlin was the fact that I would give ardent support to a full family court bill. This bill represents to me---the amendment represents to me a sincere desire on the part of this general assembly to put forth to the people of Connecticut an effective family court organization.

I think the amendment represents for the first time that I've heard any positive and affirmative action forthcoming from the other side of the aisle, and therefore as a Democrat, I actually feel that I do support this piece of legislation. However, there is one provision under Section 12 of this particular amendment concerning expenses of the operation of this particular court. I would point out to this assembly that there is no particular lever placed upon the cost of this particular family court bill to the state of Connecticut.

Wednesday, May 27, 1959

FPD
163

I think the division which is proposed, namely four judges to handle family court administration in Connecticut is effective. I think the three judges which presently constitute the Juvenile Court organization of this state---I think that that can effectively be organized under a family court setup.

I believe that the amendment shows keen insight into the family relationships.

I think that the minority leader has shown a keen understanding in the nature of family problems in the type of personnel necessary to effectively administer such type of court organization.

I firmly believe that the Superior Court judges on the revolving basis is not the answer to an effective family court organization. Many Superior Court judges find family court matters, domestic relations matters personally distasteful, and many of them have expressed a sincere desire to not handle that particular type of judicial administration.

I think that the constitutional objection has been answered by legal scholars in this state far beyond my means to contradict anything that they may have said along that line.

I have as a lawyer studied the constitutional requirements of this particular act. Without alluding to any former association, former relationship which would not prove properly with anyone on this side of the aisle, I will say that I have been acquainted with family court problems for about ten years.

I firmly support this amendment. I think we're giving the

people of Connecticut the type of legislation which we promised. There is no stall. There can be no next term. We have to give it to the people now.

It's a good amendment. (applause)

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B". Will you remark? The gentleman from Newington.

MR. SATTER OF NEWINGTON:

Mr. Speaker, I rise in opposition to this amendment. I do so on one primary ground and on one ground which I nevertheless feel is absolutely controlling because I will agree with the gentleman from Brookfield as to what the characteristics of a family court are---namely that there shall be specialized judges skilled in handling the complex family matters that come before such a court, that those judges shall have a sincere interest and a desire to solve those problems and that that court shall be one forum for the resolution of all family matters, but the one essential characteristic of this court and of every court in order for it to be effective is that it shall be constitutional, and if a court is not constitutional it is a totally ineffective court and can in fact do much more harm than could be ever imaginable.

I want you just to consider the consequences of the unconstitutionality of a family court. The consequence would be the immediate invalidity of all the divorces granted by that court, but the consequence of total uncertainty as to what the

FPD 165

family relationships are after that court is so declared to be unconstitutional----the consequences of this are almost incalculable.

Now, what is the constitutional argument here and what are the authorities in support of the basic position that such a court as suggested in this amendment is unconstitutional?

First, I think it's essential to lay the framework as has been done by the gentleman from Brookfield---namely, that the superior court is a constitutional court. By that I mean that it is specifically vested with judicial power by the constitution. Article V of our constitution provides: "The judicial power of the state shall be vested in a supreme court of errors, a superior court, and such inferior courts as the general assembly shall, from time to time, ordain and establish."

Now, the consequence of a court being a constitutional court is that it is immune from erosion. It is immune from tampering with by this legislature. It has been created by a higher authority than this legislature---namely, by the constitution, and the constitution was adopted by the people not by this legislature alone, and consequently this legislature does not have the power to tamper with, to play around with the essential characteristics of a constitutional court.

Now, my authority for that is many, many legal publications, but let me just read from one, American Jurist's Bulletin, which states as follows: "A state legislature cannot, however, in the absence of constitutional authority abolish a court created by

FPD
166

the constitution, change the organization of such court or redistribute their powers, for these courts owe their organization to the constitution and as the constitution has ordained they s aid that they shall be organized so they should be. Judicial power distributed by the constitution is beyond legislative control." And to the same effect, in Corpus Jurist Secundum, another important legal publication, the following: Hence, the universally recognized rule that except insofar as it is authorized to do so by the constitution the legislature cannot abolish, reorganize, divide (I underline that word, divide), or consolidate constitutional courts, nor alter, destroy or increase or diminish the essentials of their jurisdiction."

This then is a very fundamental problem, and I don't only rely on these generalized expressions of our law. Our supreme court had the opportunity to discuss this matter to consider it fully in the Walkinshaw vs. O'Brien case that started in 1943. That case involved the question of whether or not the court of common pleas was a valid court because it took some of the jurisdiction away from the supreme court, and our supreme court there says that the court.....that our legislature could not in any way effect the essential characteristics of the superior court--- and I might point out to the gentleman from Brookfield that in the dissenting opinion of Judge Brown he specifically states that it would be unlawful and unconstitutional to take away the divorce jurisdiction of the superior court, so that there is ample judicial, ample legal authority for the fact that we are

here engaging in a substantially questionable act by in any way creating a court such as that suggested by the Amendment "B".

Now, let me just talk about this amendment itself. First of all, it tries to give the impression that this is a division of the superior court and it uses the language throughout that amendment that it is a division, but let me tell you something.... courts aren't fooled by nomenclature. The courts look at the substance of things, and this so-called family division is really in its essence a separate court. It has a separate chief judge. It has separate and virtually complete rule making power. The judges which are appointed to it are separately designated to that particular court, and in every possible way it is clearly a separate court, and this is precisely the provision which the supreme court said in 1943 we were not empowered to do.

I believe that these constitutional objections are real and they are valid and they must give us pause to go forward with this type of adventure. And I want to say this----the gentleman from Brookfield said the other day that we are not a constitutional court and that we cannot resolve this problem but rather should leave it for those more wise than we in the stone building across the street, but let me remind him that all of us when we took the oath of office to accept this position in the legislature swore that we would uphold and support the constitution of the State of Connecticut, and by accepting that oath we are as much bound by that constitution as is the supreme court across the street and as is the governor.

FPD
168

It isn't only, I might add, the moral obligation that we have to uphold the constitution, but I want to return to the practical consequences of a court like this being declared unconstitutional----and again I state that it would automatically invalid all the divorces which had been granted by that court with the incalculable consequences of such a result. Moreover, it would destroy the marvelous juvenile court which we now have because whereas now we have a fine working intelligently conceived juvenile court and if it comes into this court and it is declared unconstitutional we'll never know where we are with respect to the juvenile court.

The administration has sought to do something about this problem. It believes that this is a serious constitutional question and it has today passed through the Constitutional Amendments Committee a resolution amending the constitution that would eliminate this constitutional problem, and if that amendment is passed we will then be in the position to create a true family court, a one that would be effective and would solve the problems which all of us believe and desire to solve. And let me say this----I don't believe there is anybody in this House who has had more experience with the general area of family relations than I have, although I don't mean that to sound quite the way it does. I mean seriously I have done an awful lot of work in this field, and I believe wholeheartedly and strongly in the family court and the family court idea, but it is precisely because I believe so strongly in it that I wanted to do it right---

FPD
169

and I believe that this amendment is not the right way to do it and I urge its defeat. (applause)

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B". Will you remark? The lady from Wethersfield.

MRS. BUDD OF WETHERSFIELD:

Mr. Speaker, may I ask a question of the gentleman from Newington through you, Mr. Speaker? In other areas in the constitution where powers and jurisdiction and so forth are defined by law the mandates are carried out by statutes. I would like to ask him. I think it's very confusing to a layman to try to understand this section 1 of Article 5 which says:...."the powers and jurisdiction of which courts shall be defined by law"...in relation to the arguments that he has given, why the powers of those courts could not be spelled out by statute and whether they have been or where this area of jurisdiction of the superior court is just definitely written into the constitution. As I see it, it's not there.

THE SPEAKER:

Would the gentleman from Newington care to answer the lady from Wethersfield?

MR. SATTER OF NEWINGTON:

Through you to the lady from Wethersfield, the reference to the constitution....in the constitution to the powers and jurisdiction of which court shall be defined by law I believe is a reference to such inferior courts as the general assembly may

FPD
170

itself establish, but the superior court has retained and constitutionally does retain all of the powers which it had in 1818 when the constitution was adopted, and therefore we have to look to those powers in 1818 to determine what this assembly and what the courts can do to diminish that authority. Now in 1818 the superior court along with the general assembly had the power of divorce and consequently this assembly we submit cannot take that jurisdiction away from it.

MRS. BUDD OF WETHERSFIELD:

Mr. Speaker, as I read the section, there is a colon there on the statement "the powers and jurisdiction of which courts shall be defined by law", and all of the courts are listed together. Therefore I cannot see why the supreme court of errors and the superior court are not in the same classification as the others as far as that last section applies.

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B". Would you care to remark?

MR. SATTER OF NEWINGTON:

Again to reply to the lady from Wethersfield, I can only say that that's the way the supreme court of our state has interpreted those words.

THE SPEAKER:

The lady from Kent.

MRS. EVARTS OF KENT:

Mr. Speaker, it has been said that nothing worthwhile can

ever be accomplished if all possible objections must first be overcome. We here must use our own best judgment to do what is right. It seems to me that we are pretty good authority in assuming that this amendment is constitutional when in addition to those lawyers here who do approve it we have the Committee of the Bar Association who studied it for so long headed by Mr. McCormick.

I move for a roll call vote and for adoption.

THE SPEAKER:

The question is on a roll call vote on the adoption of the amendment. Will all those in favor signify by saying aye, those opposed. A roll call vote is ordered.

The question now is on the adoption of House Amendment Schedule "B". Will you remark further?

The gentleman from Westbrook.

MR. SCHLOSSBACH OF WESTBROOK:

Mr. Speaker, I rise to oppose this amendment, and I'm certainly not concerned so much with the constitutionality at this time because I fail to see where the question of divorce is any worse than the question of trial by jury as found in the circuit court bill.

I do oppose this amendment as I will also oppose the bill itself. I don't believe that either of these desired bills will create a real family court. I think the only possible method of a creation of a real family court is by a constitutional amendment. I believe that could have been done and should be

FPD
172

done. I believe that perhaps it might be possible to place that within the common pleas court which has now lost most of its criminal jurisdiction and will be purely a civil court from now on.

The costs have been hidden in this particular bill also when you realize there has been asked in this particular amendment for seven additional superior court judges whose entire work will be consumed in doing a family court job or something of that size or a facsimile of it. That cost together with the proposed raises would run to approximately two hundred thousand dollars a year, and I think if we're going to spend that kind of money we ought to spend it for a real family court.

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B". The gentleman from Bloomfield.

MR. WAGNER OF BLOOMFIELD:

Mr. Speaker, I rise in opposition to this amendment.

Mr. Speaker, I think most of us here are for a family court of one kind or another and probably most of us here are for what we would call a good job of a family court, a family court that really does a comprehensive job in the full sense of the word.

We've heard some comments on the other side, Mr. Speaker, that it's time to take the bull by the horns, that this is a matter of great import at this time---it's important to get the legislation passed at this time, and I suppose this has been said

FPD 173

in explanation of the haste in which this amendment was proposed. Without any warning, one week after it was proposed here we are on the floor debating it, and for purposes of identification because there has been many family court bills I will label it the "Pinney Amendment" because the minority leader obviously drafted the bill and he is the one who has had a great deal of experience---and I do not say this facetiously---in family court matters, and I assume that he thinks now at this time that this is a family court bill we ought to adopt. We've had a week to study this, and this assembly is being asked at this time to listen to these legal arguments ~~and~~ on constitutionality and pass upon this court bill.

I don't propose to argue the constitutionality any more. I think that the essential points have been made by my colleague from Newington. I think that all fair-minded lawyers and many of the fairminded nonlawyers in this general assembly will admit that there is a grave constitutional question involved in the creation of a family court at this time---certainly without an enabling amendment. This was supported by uncontradicted testimony by legal scholars and leading representatives and senators from the other side at the hearings before the Judiciary Committee on this bill earlier this session. I have the hearings to substantiate this, Mr. Speaker.

The question then arises....why this amendment at this time?

Now, I think it's fair to say that Mr. Pinney and others

FPD
174

on his side appeared in testimony on the family court bill and the circuit court bill and the integrated court bill, the so-called bar bill, earlier this session. I have Mr. Pinney's testimony here. Nothing is said about a family court bill. No analysis is made of the importance of family relations. Nothing is said about the overcrying and overweaning need of a family court at this time, and I think we're entitled to consider without any prejudice to anybody....why the unseemly haste of something as far reaching as this family court bill at this time on one week's notice?

It goes further than the circuit court bill did, and I think that's a fair statement because the circuit court bill did not involve questions of constitutionality as this one does---- yet here we are one week after the bill has been introduced in a rather surprise amendment to ask this assembly to pass upon it.

This, mind you, Mr. Speaker, from the minority leader and that party which has time after time taken the floor of this assembly to chide those of us on this side for pushing through a county abolition bill which has been considered only for thirty years, had not been adequately considered by the subcommittee. Well, Mr. Speaker, there was a subcommittee on this family court bill---a large subcommittee---fourteen members, and they did meet and they did consider the family court bill. They considered family court bill 492 which is not before us now. It was known as the administration family court bill.

Wednesday, May 27, 1959

FPD
175

Now, it's necessary, I think, for one moment to compare the so-called administration bill with the so-called Pinney bill which we have now before us in the guise of this amendment.

Mr. Speaker, I have analyzed these two bills and I think it's fair to say that they're substantially the same. The paragraphs have been rearranged, some nomenclature has been added with respect to divisions to make it, in my opinion, a little unclear as to whether a new court is indeed intended or whether it was intended to....well, bypass the constitutional question by using the word "division" or not. But make no mistake about it! This is old 492 in front of us now, but instead of being the administration sponsored bill it is the Pinney sponsored bill, and that is the thing we are being asked to vote upon here today.

Now, I think that a bill of this sort which has been considered by the subcommittee of the Judiciary Committee is entitled to be a little more....considered in more detail than this one has at this time. I can assure you, and I think that anyone else who was on that subcommittee can assure you, that there was a genuine and a biding determination to get a good family court bill out in this session. If we had not run into the constitutional question, that bill would have been before us now---the very bill which we're now discussing here in the amendment. I think it was a better bill. With all respect to Mr. Pinney, I think this bill has taken most of the good points of H. B. 492 but introducing qualifications which will buy trouble. They're technical. I repeat them here only for the purpose of proving

FPD
176

my point. I think, for example, that it should have been made clear as at least the bar bill did---which made it clear that they were setting up a separate court and that they were tackling the constitutional question head on, and at least the people supporting the bar bill said in so many words,"We need a constitution amendment, of course"....not of course...."We may need a constitution amendment to prevent some of the problems which we anticipate coming up from coming up." This was repeated by several of the superior court judges who testified before the subcommittee.

I wonder if Mr. Pinney has taken the trouble to find out and evaluate and weigh this testimony at this time. Certainly it was significant testimony from the very court that might have the most to say as to whether this bill is constitutional or not at this time.

There were grave practical difficulties raised by the judges of the superior court. Grave questions were raised as to whether the practical implementation of this family court were such that it would be advisable to adopt this at this time. The whole matter, for example, of whether you can get a judge or three judges or seven judges as the amendment proposes to do nothing but sit on family court matters day after day----whether we can get that kind of a judge and incorporate him in the superior court system at the present time. All these matters were to be weighed by the subcommittee and were in fact considered, and I ask you in all fairness.....is it the prudent thing

FPD
177

to do? Is it the wise thing to do to pass a measure of this vast import, of this far reachedness at this time without adequate consideration of all these aspects?

I point out that in Section 12 of the bill, a simple phrase,....it says the prosecuting attorneys shall be attorneys at law, or words to that effect. Now, there's a grave question there because the same problem came up in the circuit court bill as to whether it would be wise, Mr. Speaker, to say in so many words that the prosecuting attorneys must be attorneys-at-law.... in view of the existing legislation now on the books with respect to the superior court and common pleas which does not have that wording. I cite this to illustrate. I think that this particular amendment before us has not been the best drafted amendment, the best considered amendment, and as a matter of fact, it's not even the 'mostest' family court bill. Let us not deceive ourselves on that matter.

This is a kind of an in-between bill. It does not go as far as the bill proposed by the bar in the so-called integrated bill. It's a half-way bill, and frankly speaking, the administration bill was a half-way bill, but I believe the administration bill, H. B. 492, had much to commend in it which this bill does not have.

Let me leave that and make a few closing remarks.

We talked about a constitutional amendment, and the other day when the amendment was introduced the gentleman from West Hartford made reference to the fact that an amendment had been

FPD 178

introduced earlier this session which would have eliminated this problem....and, in fact, it had been bottled up in committee. Well, I have that amendment in front of me, and in my opinion and in the opinion of the other gentlemen who have considered it, it does not eliminate the problem. As a matter of fact, the Constitutional Amendments Committee is now----and I mean now---- working on the implementation of an amendment which will eliminate the problem, we hope, if it is adopted. And the way to eliminate the problem is to eliminate the superior court as a constitutional court.

This is a matter which has been seriously considered only in this session of the legislature for the first time because those of you who are familiar with the record will know that it was not seriously considered at the last session....the first time it was even drafted. As a matter of fact, it was bottled up in committee, and I need not tell you or go into the reasons why it was bottled up at that time. And after the 1957 session was over, Mr. Speaker, an interim committee was set up to consider matters of import to the courts and to the Judiciary Committee at large, and the interim committee, composed of some of the finest legal minds in this general assembly and, of course, controlled by the party on the other side, had deliberations over a long period of time and they made certain recommendations. And, Mr. Speaker, going through the recommendations, I note that they gave a very subsidiary role to the importance of a family court bill.

FPD 179

What they said in effect, Mr. Speaker, is..."Let's go slow in this matter"....or let me read you the report of the interim committee because I think it's important. After all, Mr. Pinney was a member of that interim committee as were many of the other people who I suppose are now supporting this amendment on the other side: "Because of the practical difficulties involved in the attempt to achieve the objectives set forth in paragraphs 1 and 2, and that includes the family court bill, by a single sweeping change, a program should be developed under which these objectives would be accomplished in a series of steps taken over a period of time. As a first step in such a program the existing municipal courts should be incorporated." That was the good old interim municipal court bill which would have done away with the city courts but would have left the justice courts intact. And then it goes on, and finally in its last paragraph says: "The second step should be the establishment of a family court. Substantially it's proposed in House Bill 1812 of the 1957 session." So there is the family court recommendation.

Now, Mr. Speaker, let me remind you that at the beginning of this session there were two family court bills before us. One was the so-called bar bill and the other was the so-called administration bill. While the other side had introduced the interim municipal court bill, I found no family court proposal by the other side. I found no testimony favoring the family court from any responsible member of the other side except Senator Barringer, and even he in his testimony before our committee

and the record of it is in the hearing, stated at that time.... "Well, what we need is a completely separate court. We don't want to grow within the superior court system."

I have said all these things and perhaps I've strayed just a little bit, Mr. Speaker, because I think it's important for all of us to realize that this amendment has been proposed in ill considered haste, and I think that the history of the family court proposals must be considered by all of us here. Let us not be misled by the kind words that all of us from the sincerity of our hearts can say and mean about the need of a family court system. Let us realize that we have severe and significant problems to consider---not only the constitutional problem, but indeed, Mr. Speaker, the very practical problems that have to be considered in terms of the existing superior court setup, in terms of the existing juvenile court setup, and in terms of the existing wishes of the superior court judges.

Now, I'm going to close my remarks here, Mr. Speaker, but before I do....let me just say this...., that the main bill before us which has been described by a nothing bill, and when this amendment is defeated I propose to analyze that bill a little more and to offer it for your serious consideration before this assembly because it is far from a 'nothing bill'. It does ten or twelve things that are absolutely necessary to be done that might conceivably be done under the rule making powers but cannot be and have not been done under the rule making powers so far.

Mr. Speaker, I urge all people of rational import at this time to defeat this amendment and let us consider the bill before us.

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B". The lady from Darien.

MRS. FARMER OF DARIEN:

Mr. Speaker, responding to the two gentlemen, the young gentlemen from Berlin and Bloomfield, in regard to the constitutionality of such a court as the family court and the interpretation which they report to us the courts have made on the clause... the final clause in Article V, Section 1 of the constitution which clause says: "the powers and jurisdiction of which courts shall be defined by law". Now, all of us know that there's no place in the constitution where the powers and jurisdictions of any courts are defined, and how any judge, any court, any lawyer could interpret that final clause in Section 1 of Article V as it appears they have is beyond my very poor and simple comprehension. And if the statutes cannot define the jurisdictions of our upper courts according to this jurisdiction, I ask you, Mr. Speaker, and members of this House, how do you explain Section 51-199 in Chapter 883 on the supreme court of errors, the highest court in this state? Let me read you briefly. The title is "Jurisdiction". "Said court shall have final and conclusive jurisdiction of all matters brought before it according to law...

FPD
182

(and I would say that's the general statutes---wouldn't you?) ....and may carry into execution all its judgments and decrees.." and so on. Now, if the general statutes cannot define the powers and jurisdictions of any courts except these inferior courts referred to in Section 1 of Article V, how do you account for this section in the statutes?

As far as the matter of a family court being a new matter or one which hasn't had sufficient consideration or any bill which has been hastily drawn and should not be considered at this time, I would like to remind the members of this House that a family court bill has been pending before every session of this legislature as far back as I can remember. I have appeared here every session in favor of such a court. In fact, I've sponsored such a bill a number of times...., a standard family court bill, and enough study has been given to this matter by members and former members of this House to have written the perfect bill which goodness knows does not exist, but so far as never having had sufficient consideration, this matter has been considered until everybody who's interested in it has almost given up hope that anything will ever be done about it. And as far as the last session is concerned, I sponsored a bill myself. The Judiciary Committee considered several family court bills, and it's perfectly true that lawyers never can agree about how these things should be done---but, goodness knows it's way past time that we adopted some kind of a feasible family court bill, even within the structure of the superior court; and how anyone can

FPD
183

question the constitutionality when it is a division of the superior court is beyond my comprehension.

As far as practical problems are concerned which the gentlemen referred to, you will always have practical problems and there isn't anybody with any brains who can't think up some practical reasons for not doing a thing no matter how good it is, and I want to tell you some good brains have been devoted to that in times past, and for a long time past! Now, I think it's time we devoted some of these brains to doing something constructive. It's long past time for it, and I hope that this amendment will be adopted.

THE SPEAKER:

Question is on the adoption of House Amendment Schedule "B". The Chair recognizes the gentleman from Bethany.

MR. TURNER OF BETHANY:

Mr. Speaker, the gentleman from Berlin and the gentleman from Bloomfield used an expression that I can't quite go along with because of the implications involved. They both said "on the other side". Now, I think the lady from Darien has indeed underlined the fact that this is not a new issue one week old---that it goes back for many sessions, and I through you, sir, would like to inform the gentleman from Bloomfield that I have been personally intensely interested in a family court since early in the thirties when I was in business in New York....and at that time Judge Anna Cross was writing the clear, fine record of the family courts down there in the city. She's now, I believe,

FPD
184

Commissioner of Penal Institutions in the city.

This is not something that happened yesterday, and I have been hoping to have a family court established here in the State of Connecticut since I moved here in the late thirties, and I have been emphatically as a candidate in the last three elections very definitely committed to my constituents---and I will say in Bethany on both sides of the political fence who are almost unanimous in a desire that we enact a bona fide and not a bogus family court. And incidentally, one of the most interested proponents of a family court is my Judge of Probate who would be only too delighted to be relieved of the matters that would be taken out of the probate courts and put in a bona fide family court.

Mr. Speaker, I would like to read briefly a statement that appeared in the New Haven Register the 17th of May:

"The Public Issues Committee of the Connecticut Family Service Association have expressed their opposition to the family court session bill as recently passed by the State Senate. (This is the original bill of which we are considering the amendment). The committee still favor a family court bill as originally suggested by the Governor and the Connecticut Bar Association and maintains that the present bill fails to meet the basic requirements of such a court and adds no new services to the court structure.

In a statement issued Saturday, the committee announced that it is in favor of a family court bill which would establish

FPD
185

a separate court with full time judges and a specialized staff"..., and I comment, Mr. Speaker, that this amendment is the bill that they're talking about.

The statement added: "We would prefer to see steps taken toward the development at a subsequent date of a true family court with jurisdiction and resources to handle all family court matters", and that is an alternative to buying the original bill here; and I think it would be well to read into the record the agencies that are involved in this: The Family Service of New Haven, the Jewish Family Service, Diocesan Bureau of Social Service, Archdiocese of Hartford, Bristol Family Service Agency, Family Service Association of Meriden, Family Service Association of Middletown, Family Service Association of New Britain, and Family and Children's Service of Stamford.

Mr. Speaker, the people who devote their time, their energies and their efforts to trying as a physician would therapeutically to heal the wounds in family troubles are those who are closest to the picture, and today as the situation exists,--- and you have heard from the gentleman from Brookfield how family cases are broken up...some in one court...some in another. This is brutal surgery, where actually a complete and sympathetic approach such as could be applied in a family court that would be provided with specialists--not only judges, but social service workers, psychiatrists and others to assist the judges in their decisions.

Mr. Speaker, I close only with this protest. I am one

FPD
186

of the people in this House who was willing to go along with the court reorganization bill and I voted for it in the hope that we would have before us a bona fide family court bill that I could vote for, and I'm glad that we are going to vote by roll call because I want my constituents to know where I stand!

THE SPEAKER:

Question is on the adoption of House Amendment Schedule "B". The gentleman from Farmington.

MR. McGEE OF FARMINGTON:

Mr. Speaker, I first submit that it seems to me that it is of no great help to any of us whether we call this a Pinney bill or a once done administration bill or twice done bar association bill, or what have we! It seems rather essentially the question is, do we want a family court or don't we want a family court?

If we want a family court then I submit we must vote for the amendment. If we don't want a family court we vote against the amendment, and then it doesn't matter very much how we do on the bill because the bill doesn't do any more than what we have at the present time.

There has been considerable talk about the constitutionality of this act. I submit that perhaps none of us here can fully answer that question. It seems to me, however, that the intent of this bill is somewhat along this line. We see that the superior court now primarily has before it a subject matter which has greater social consequences than perhaps any other matter

that is litigated, and I speak of family matters and particularly marital matters,...that this legislature feels that that superior court can handle that heavy and extreme problem best by having certain specialized and qualified judges handle those matters exclusively, that this is not setting up something which is other than a superior court....but rather this is enabling the present superior court to carry out its function in a manner which is more compatible and which will have better results with respect to our society. For these reasons, the constitutional problem is of no great determent to me to accept this amendment.

I have some reservations with respect to this bill and I've had some with respect to all family court bills, in the sense that it does set aside certain superior court judges to act on these things exclusively. To the extent that it does that, it seems to me that it reduces the flexibility of the superior court, and those of you who are familiar with the tremendous backlog in the superior court today will recognize that any reduction in its flexibility is a problem. Further, it takes some matters away from probate court which I submit to some is troublesome, but these matters, as I look upon them from the probate court, are not essentially substantial and will in no way really prove burdensome or a real difficulty with respect to the probate courts, and so far as the flexibility of superior courts is reduced that again I think fades away when we recognize that marital problems, divorce and separation and what-have-you is perhaps the most crushing problems facing our society at large

FPD
188

today.

Again I submit, the question merely is, do we want a family court or don't we? Each has to answer that according to the way he sees it. As I see it, we want one, and I propose to vote for the amendment.

THE SPEAKER:

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, we've heard a great deal pro and con on this question. Insofar as my great party's position is concerned.... simply, the facts are these.

We don't propose, Mr. Speaker, to take a chance on whether this is constitutional or unconstitutional. There is a serious doubt, serious questions have been raised, and we don't want to have the consequences from our action here if we were to vote on this amendment favorably turn out or result in such a manner that they might be very, very damaging in the future, and it's for that reason and that reason alone that our party's position is clear insofar as our opposition to this amendment is concerned. There is a serious question, there is a serious doubt as to whether or not the amendment setting up this family court would be constitutional.

I think that perhaps most of us have been heard, our arguments have been presented, and I would appreciate it and I think a great number of other people in this House would appreciate it if we could proceed with the vote.

THE SPEAKER:

The gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, I appreciate the concern of the gentleman from New Britain to proceed with the vote, but this is a matter near and dear to my heart and I should like to respond to some of the remarks that have been made in the course of the debate on this this afternoon, and I'll try not to be lengthy in so doing.

I've listened to the arguments that have been offered against this bill. There seemed to be two of them. The first argument---the argument offered by the gentleman from Bloomfield that more time is needed for study of this matter. It's an argument which I think he answered himself when he pointed out that the Judiciary Committee had considered this matter at length this year, that the committee had considered it at length last year, that the interim committee had considered it at length, the state bar association's committee has been considering it at length, the Inglis committee considered it at length, and I would point out to you that both the state bar and the Inglis Committee came out fully in support of a proposal such as the one you have before you now.

The second argument against the amendment is the constitutional argument. Now, the gentleman from Newington has read to us from American Jurists Prudence which is a fine generalized treatise on the law, and he quoted briefly from the only Connect-

icut authority on the subject---the case of Walkinshaw vs. O'Brien. He cited in 1943, and I should like to quote briefly from that case because I think therein lies the answer to this whole constitutional question:

"Chief Justice Maltbie in construing the act authorizing the court of common pleas considered this constitutional question as raised by Article Five of our constitution and he pointed out that there can be no doubt that it was the intent of the constitution that this court (there referring to the superior court) should continue with the essential characteristics it previously possessed."

He went on to say that the legislature cannot establish an inferior court "so as to materially detract from the essential characteristics of the superior court as it was then constituted".

That takes us back to this question that we have discussed before---the question of whether divorce wan an essential characteristic of the superior court in 1918...1818. Now, as I have pointed out, in 1818 the superior court did not have exclusive jurisdiction over divorce. Divorces were granted by the court and by the legislature, and it wasn't until thirty years later, in 1849, when the legislature turned over the jurisdiction of divorces to the superior court. At that time it was conferred by statute and not by constitutional provision. Clearly the legislature still has the constitutional power to grant divorces. From the time when the superior court was established in the early eighteenth eentury and prior to then since its predecessor

FPD 191

the court of assistance was empowered to grant divorces in 1667 until 1849 the superior court's power to grant divorces was concurrent with that of the legislature. Now, there's absolutely no question about that. As time went on most divorces were granted by the court, but right up to the year of 1849 when the jurisdiction was transferred, a very large number of divorces was granted by this assembly. The court's complementary authority over divorce was not at the time of the enactment of the constitution and cannot now be considered to be one of the essential characteristics of the superior court. There is no doubt that the legislature presently has the power to grant divorces. Certainly it can delegate this power which it has never been deprived of to a quasi administrative body if it saw fit or to an inferior court if it saw fit. Even if the superior court had not traditionally shared its jurisdiction over divorce with the legislature, the withdrawal of divorce jurisdiction in 1818 from this court would not materially affect its essential characteristics, for the legislature to withdraw authority over one limited type of controversy does not cut deeply into the domain of the superior court.

The court of common pleas which was at issue in the Walkinshaw case withdrew jurisdiction of all legal and equitable matters where the amount in question was less than twenty-five hundred dollars. Certainly if this across the board slice of the superior court's jurisdiction does not impair the superior court's basic characteristics, and it was so decided in the Walkin-

FPD
192

shaw case, the withdrawal of but one type of controversy which was never in the exclusive domain of that court cannot possibly do so.

Now, I would like to say this. In my humble opinion, the constitutional argument is strictly an argument of convenience. It's the convenient argument for those who cannot in their consciences come out and say, "I oppose a family court". It gives you a nice umbrella to hide under, but it is not a valid argument as applied to this court!

I would be even more convinced by your arguments that you need more time, that there's a constitutional question, if you hadn't brought out and presented to this assembly an utterly phoney bill, a bill which does absolutely nothing, which does not do anything that cannot be done by the courts today.

The gentleman from Newington said that he proposed this constitutional amendment because the administration when it finally got around to setting up a family court wanted to do it right. I ask you ladies and gentlemen of this assembly whether the original bill 492 that we have before us today---the bill that's in our files---constitutes doing it right! To me it is a snare and a dilution. It's almost, I believe, an insult to the people of the State of Connecticut to try and sell them that this is a family court when it is nothing but a rewrite of the practice book!

I would make one other observation on this constitutional question. When the circuit court bill was brought in here some

FPD
193

people honestly raised the question as to whether or not we had the right to take away trial by jury in certain minor matters. This was rather lightly brushed off! When the abolition of county government bill was brought in here, the question of whether the state had the right to tamper with the counties was raised---a constitutional question, and the good gentleman from New Hartford and the gentleman from West Hartford both quoted to you from a case in which the supreme court of our state said clearly that the state had absolutely no right to tamper with the counties, and yet that constitutional argument was chucked out the window!

Now, I say once again that this constitutional question is solely and strictly an argument of convenience! If you really mean to create a family court, here's your opportunity----vote for the amendment. (applause)

THE SPEAKER:

The lady from New Canaan.

MRS. DUNNINGHAM OF NEW CANAAN:

Mr. Speaker, the people of my town are overwhelmingly in favor of a real family court. That is why I rise to speak in support of this amendment, and I would like to read a letter which expresses the view of some of them---one in particular, but others have expressed the same point of view:

"I am very disturbed to hear that the original family court bill has been replaced by a substitute. I had thought the

FPD
194

original bill was one thing the citizens of Connecticut could count on at this session, and I do not understand the reasons for the substitution of so weak a bill. As a family case worker particularly, I am made constantly aware of the need of a court where all family domestic problems can be dealt with together. Anything else is wasteful from every point of view. I also know how very essential it is to have full-time trained personnel from judges to probation officers in such a court. It is far better to have no family court this year than to have one which fails to provide these absolute essentials. I hope you will vote against the substitute bill."

THE SPEAKER:

The gentleman from Avon.

MR. AUGUST OF AVON:

Mr. Speaker, I am happy to have been a member of the joint subcommittee in the '57 session when the gentleman from Brookfield prepared this amendment, and if anyone is concerned that this is something that was prepared only recently they should divorce themselves from that thought for it was carefully studied in the '57 session and was argued here on this floor.

Now, I believe that there are only two issues here on this matter today and they are rather simple.

Number 1, will we vote in favor of the bill and support a paper platform pledge of the administration, or 2, will we try to adopt something that will preserve the family relationship? And I speak now to my brother lawyers and say this...that can we

FPD
195

as lawyers honestly feel that we are competent as lawyers to preserve that family relationship, and I say the answer can only be "No", for there are two aspects to any divorce or marital problem. We feel that we are competent to handle the legal aspect concerned with the property settlement and the divorce itself, but when we discuss the social aspect as alluded to by the statement read by the former Chief Justice of this state, lawyers are no more than any other layman in settling that social problem.

It seems to me that a competent court handling a domestic problem at its very source when the wife or the husband hits the opposite spouse over the head with the pot or the pan down to the time of the ultimate divorce is the only competent tribunal that should be had to consider this problem.

A clerk which with experience, judges and personnel is intent only upon preservation of that family relationship and not upon legalizing a family breach.

Mr. Speaker, I'm afraid that if this amendment is lost and the bill is passed that this session will be considered the session of diversion. A few days ago we passed a highway diversion bill. If this bill is passed, we will be passing the family court diversion bill. Thank you.

THE SPEAKER:

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, when this bill first came before this House

FPD
196

for our consideration....this bill concerning the family relations sessions court of the superior court..on Monday we were presented with a very long and technical and rather complicated amendment by the distinguished gentleman from Brookfield, and at that time he urged us to adopt that amendment even though we waived the reading and he got up and explained it at length...(it took fifteen or twenty or twenty-five minutes to explain it)....and he assured us that was a good bill or a good amendment at that time, but, of course, we just couldn't buy that. We wanted to read that amendment and study it. What happened since that time--since Monday? Since Monday evidently the distinguished gentleman from Brookfield and other members of his party found out that the amendment, House Amendment Schedule "A", as originally presented for our consideration wasn't quite as good as he would try to have us believe because today we're presented with another amendment which would take care of perhaps some of the defects in the original amendment, House Amendment Schedule "A". Now, we haven't really had an opportunity to really consider this amendment either, and who knows whether it's a good one or a bad one or what flaws exist or hidden flaws exist?

I submit to you, Mr. Speaker, and I say this in all sincerity, that there is a serious question concerning the constitutionality of what this House Amendment Schedule "B" proposes to do, and our party for one doesn't want to be any party to an amendment or to a bill or to a proposition where there is this grave question of constitutionality. We don't

FPD
197

want to have any unfortunate circumstances arise afterwards, or consequences come about afterwards as the result of any action we take, and I submit to you, Mr. Speaker, to play it safe and to do the reasonable thing would be to vote against this amendment and I trust that the majority of the people here in this House will so do.

THE SPEAKER:

The gentleman from Norfolk.

MR. ZANOBI OF NORFOLK:

Mr. Speaker, I can't resist getting up here after that brilliant explanation, but earlier the gentleman from Bloomfield and now the gentleman from New Britain makes references to hastily drawn amendments.

The gentleman from Bloomfield remarks in passing on the circuit court bill and on the abolition of county government. Now, when it comes to hastily drawn amendments and well thought out bills, I submit to you that the abolition of county government which was studied for thirty years.....

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, I rise to a point of order.

THE SPEAKER:

Will the gentleman from New Britain please state his point of order.

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, my remarks were addressed to this bill and not the abolition of county government or any other type of bill

FPD
198

that we considered previously, and I say that the gentleman's remarks are not germane to the subject matter under discussion.

MR. ZANOBI OF NORFOLK:

Mr. Speaker, I'm trying to explain the difference in hasty amendments and hastily drawn bills to which the gentleman from New Britain and the gentleman from Bloomfield have repeatedly referred. I think I have that right to explain the difference as I see it.

THE SPEAKER:

We are discussing House Amendment Schedule "B", and I would ask the gentleman to confine his remarks to a discussion of House Amendment Schedule "B".

The gentleman from Weston.

MR. LUPTON OF WESTON:

Mr. Speaker, any member who has been in the general assembly of Connecticut for more than fifteen days has heard numerous arguments presented in opposition to legislation that suggests the possible unconstitutionality of the proposed measure.

I might suggest that it would be appropriate to say that in just the last bill before this one the opposition used the argument that this was possibly and probably unconstitutional.

I would also like to suggest for the memory of those who have served here more than one term that the distinguished majority leader has frequently used the argument that we should sometimes pass bills in order to establish the doubtful question of constitutionality, and in the course of listening to this

FPD
199 debate I have written a little poem which I would like to present in connection with this legislation---and I would suggest to the distinguished members of the other side that until they hear this poem they don't know whether it's germane!

When the lawyers disagree on constitutionality
Then's the time for you and me to take the helm and plow the sea
If authorities don't know whether we should stop or go
Ought is left to us beside...so let your conscience be your guide.

I intend to vote for this bill.

THE SPEAKER:

The gentleman from New Britain.

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, the distinguished gentleman has just made some reference to my suggestions in the past on other bills where the question of constitutionality has been raised that I have suggested to the members of this House that they vote for it to see whether or not the bill is constitutional or unconstitutional. I ask him to tell the members of this House which bill I asked the members of this House to vote on with that sort of request!

THE SPEAKER:

If the gentleman from Weston would care to reply, he may do so through the chair.

The Chair recognizes the gentleman from Weston.

MR. LUPTON OF WESTON:

Mr. Speaker, the suggested question is not appropriate,

FPD
200

but I would like to correct the statement I did make and that is that I wish to support the amendment---not the bill.

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B", and the Chair recognizes the lady from Woodbridge.

MRS. VESTAL OF WOODBRIDGE:

Mr. Speaker and gentlemen and ladies of this House, I would feel derelict in my duty to the many people in Woodbridge who have contacted me to urge the establishment of this much needed family court, and if I didn't rise to support this amendment I would feel equally derelict in my duty to the Family Service of New Haven on whose board I serve if I didn't urge every one of you in this House to consider with your whole heart the plight of the troubled men and women, and particularly the children in families where domestic problems have arisen and where these problems are not being considered as a whole but in pieces, are not being considered by experts in this field, are not being given the total considerations such as would be available in a family court.

The Democratic state platform of 1958 promised this court reform shall include also a domestic relations family court established as a division of the superior court. I trust many Democrats will help to keep this promise.

THE SPEAKER:

The question now is on the adoption of House Amendment Schedule "B". The Chair recognizes the lady from Woodstock.

Wednesday, May 27, 1959

FPD 201

MRS. PITT OF WOODSTOCK:

Mr. Speaker, the people in Woodstock and all the people that I have talked with about affairs in the legislature are extremely interested in having a family court and in having a good one and an effective one.

Certainly I have heard this proposition presented to us ever since I have been here. There is no secret about it. We know about it and we have talked about it.

It is vastly important that this time we are having come up to a family court as, may I say, a second step, and that was taken out of context of the interim report as a second step in court reorganization----here we are with a family court in front of us.

One point I should like particularly to mention, not that it is especially important, but it is so....and that is in regard to the opinion of the judge of probate in Woodstock to whom I spoke about a family court. I say she...she is a woman judge. Many judges of probate are women, as you well know....so she said she would be glad to have a court reorganization that's to include a family court although it would make considerable difference with her duties. I think she reflected this opinion not only as a judge of probate but as a woman, and I speak not only as a legislator but as a woman.

Women throughout this state are tired of waiting for a family court. Women throughout this state---you've already heard a report from them---are supporting the amendment before us. It is the amendment that the women want and I'm for it!

FPD
202

THE SPEAKER:

The gentleman from Monroe.

MR. JACOBSON OF MONROE:

Mr. Speaker, I would like to call the members of this House to a study made by Professor Eli Clarke of Yale University who helped write the bar association bill. Now, I am sure that if there was any question as to the constitutionality of this bill, Professor Clarke would be the first to say so.

I think that the members on the other side are using an old mores trick, and that is if you can't win the issue by logic, confuse the other side. So what are you doing? You're raising the old....you're using the old trick and you're raising the question of constitutionality!

Now, the gentleman from Brookfield explained to you that 1943 case, and I'm sure there is no question of constitutionality involved at all.

Now, this domestic problem is nothing to be toyed with because the whole foundation of our society is based on the home, and if we can do anything to strengthen the home and to preserve marriages then we are doing a good thing---and that's exactly what this amendment is trying to do, to build a strong domestic court where we can solve the domestic problems and perhaps salvage a few marriages.

I am for this amendment. I think it's one of the best things we've had in this session, and I urge you all to support it.

FPD
203

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B", and the Chair recognizes the gentleman from Manchester.

MR. ARONSON OF MANCHESTER:

Mr. Speaker, I think almost everyone in this House wants a real family court. I think the issue boils down to simply... Is it or is it not a constitutional bill which is before us now or is it not, and I think it's time we decided whether Connecticut is or is not the Constitution State, and I think it's time we took a vote!

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B". The Chair recognizes the lady from Darien.

MRS. FARMER OF DARIEN:

Mr. Speaker, I would like the unanimous consent of the House to remark briefly.

THE SPEAKER:

The Chair hears no objections. The lady may proceed.

MRS. FARMER OF DARIEN:

Mr. Speaker, one of the disappointing things to me about some of the proceedings in this House has been the frequency with which certain gentlemen on the other side have risen to a point of order and claim.....

MR. GOOGEL OF NEW BRITAIN:

Mr. Speaker, I rise to a point of order right now!

FPD
204

THE SPEAKER:

Will the gentleman from New Britain please state his point of order?

MR. GOOGEL OF NEW BRITAIN:

The lady's remarks are not germane to the amendment under discussion.

THE SPEAKER:

It is the Chair's interpretation that the lady had asked for unanimous consent to address the House, and the Chair would not believe that it would be necessary that she be speaking on the amendment at the moment.

MR. GOOGEL OF NEW BRITAIN:

Well then, Mr. Speaker, I object to unanimous consent if she's not talking on the subject matter under consideration.

THE SPEAKER:

The Chair would say to the gentleman from New Britain that the unanimous consent had been already granted and the lady has the permission of the Chair to continue to speak on unanimous consent, but the Chair would respectfully make the admonition to all members of the House that the hour is drawing late and I am sure we are all anxious to get to a vote, so would you keep your remarks to a minimum.

The lady from Darien.

MRS. FARMER OF DARIEN:

Mr. Speaker, I repeat that I have been disappointed at the frequenty with which a few people on the other side have

FPD
205

questioned the relevancy of the remarks of some of the people on our side. Now, we all know that one of the jobs of a lawyer when he stands before a court is to listen carefully for any remarks that might be harmful to the cause of his client, and it's also his job to bob up as quickly as he can and try to prevent the court or the jury from hearing those remarks. That's perfectly in order in a court. However, I believe that in this which is supposed to be a deliberative body that the remarks which people have in mind to make are going to be made sooner or later with or without the objection of any person who may sit here, and I would respectfully call to your attention, Mr. Speaker, and to the members of this House the fact that the gentleman from Bloomfield spoke at great length on the bill the question of county government having been under consideration by this House for thirty years which actually it hasn't...because no bill has ever been presented here to my knowledge. I could have stood at that moment and I was tempted to stand and question the relevancy of the remarks of the gentleman from Bloomfield, but I believe after you've served here for a few years most of us develop a certain amount of tolerance, and I commend to you, Mr. Speaker, and to the members of this House the cultivation of the quality of tolerance. (applause)

THE SPEAKER:

The question is on the adoption of House Amendment Schedule "B". The Chair recognizes the gentleman from Waterford.

FPD
206

MR. BASCOM OF WATERFORD:

Mr. Speaker, I've been almost constitutionally educated in the last few hours, and I hope that this constitutional education carries over until tomorrow because tomorrow we're going to hear what a poor constitution we have, and I trust that the other side will bear in mind how good our constitution is tonight! (applause)

THE SPEAKER:

Will you remark further? The gentleman from New Canaan.

MR. FINCH OF NEW CANAAN:

Mr. Speaker, I shall be very brief. I had intended if the debate hadn't been quite as long to go further, but I wish to answer first of all my distinguished colleague from Bloomfield who spoke and said that there had been very little support for this family court bill. Briefly, Mr. Pettingill, who is chairman of the Court Revision Committee of the Bar Association, favored it; Judge Jennings favored it. I'm reading from my notes on testimony that was taken. Erving Pruyn favored it and he, I would recall to you, is one of the new circuit court judges. He reported for the interim committee, and he said that the family court problem was considered by the interim committee who strongly favored it but did not duplicate the work of the bar....that had been covered by the bar and administration bills. Judge Margaret Driscoll favored it. Senator Barringer favored it. Alfred M. Bringham favored it. Max Schwartz from Woodbridge favored it, as has been mentioned by others. Probate Judge Mary Ryan from New Hartford favored it and pointed out that there was a great

FPD
207

of problems with children because they were used as a matter of bargaining power by both plaintiffs and defendants to gain their end, and that she thought a family court would be a very, very sound solution to this.

I believe the only way we can get a decent family court, Mr. Speaker, is to vote for this amendment.

THE SPEAKER: (William J. O'Brien in the Chair)

The Chair recognizes the lady from Beacon Falls.

MRS. O'SHEA OF BEACON FALLS:

I've had it! The gentleman from Avon said it was such a wonderful amendment, such a wonderful bill, and in '57 they discussed all of it.....then why didn't they pass it? They had everything their own way! (applause)

THE SPEAKER:

Will you remark further before the announcement on the outside microphone is made? The House will please be in order. Will all persons not members of the general assembly, employed by the general assembly or members of the press, radio and television industry please remove themselves from the hall of the House? Will all members please return to their chairs?

The question is on adoption of House Amendment Schedule "B". The Chair will now unlock the machine. Will you please direct your attention to the board to see if you have voted as you desire? Have all those voted who claim the right to vote? Does any member desire to change his vote? The Chair will now lock the machine. The Clerk will now announce the result of the

vote.

THE CLERK:

Considering the House membership presently being constituted at 278 because of the unfortunate death of one of its members, the vote: Those voting Yes, 121; those voting No, 133; those absent and not voting, 24.

THE SPEAKER:

The 'Nos' have it. The amendment is rejected. Question now is on acceptance of the committee's favorable report and passage of the bill in concurrence with the Senate. All those in favor please say aye, opposed no. In the opinion of the Chair the ayes have it.

MR. TURNER OF BETHANY:

Doubt it. Mr. Speaker, I move that when the vote be taken it be taken by roll call.

THE SPEAKER:

Question is that when the vote be taken it be taken by roll call. All those in favor please say aye, opposed no. A roll call has been ordered. Will you remark further?

The Chair recognizes the gentleman from Bethany.

MR. TURNER OF BETHANY:

Mr. Speaker, I rise merely to oppose the adoption of this unamended bill. It's a bad bill. It's a hoax being foisted on the voters of Connecticut, and I can't wait 'till the next election campaign!

THE SPEAKER:

The Chair recognizes the gentleman from Brookfield.

MR. PINNEY OF BROOKFIELD:

Mr. Speaker, I will not prolong the debate. I have already indicated my opinion of the bill. It's an attempt to delude the people of the State of Connecticut. I think it's a monstrosity, and I hope it's defeated!

THE SPEAKER:

The Chair recognizes the lady from Darien.

MRS. FARMER OF DARIEN:

I'm unalterably opposed to this bill for several reasons. I'll mention just one, and that reason is that if we pass this bill today we will put off indefinitely getting any decent kind of a family court.

THE SPEAKER:

The gentleman from Westbrook.

MR. SCHLOSSBACH OF WESTBROOK:

I, too, would like to oppose this bill because like the amendment, I think it is absolutely an impossible bill. This particular bill is nothing more than a facsimile of what this state really needs, and I believe that it is only a family bill in name only----and I think it should be defeated!

THE SPEAKER:

The Chair recognizes the gentleman from West Hartford.

MR. SHULANSKY OF WEST HARTFORD:

Mr. Speaker, I promise to be brief. Speaking on this bill

FPD
210

the other day, I pointed out, and despite what the gentleman from Bloomfield has said....and I have reviewed the present rules and the bill which is under consideration, this bill is nothing more than an absolute rewrite of the rules which have been in existence for seventeen years. Now, if that's what the majority party wants to offer the people of the state and pass as a so-called family court, they can do it, but there is one serious disadvantage here. The court has been able to change these rules to improve them from time to time. Now when we put them in the statute, the judges are not going to be flexible with regard to rule making in this regard and they're going to have to come back here every so often, and I think we are killing a real family court here and now!

THE SPEAKER:

Question is on passage of the bill in concurrence with the Senate. The House will be at ease for two minutes. * * *

The House will please be in order. Will all members please return to their chairs? The question is on passage of the bill in concurrence with the Senate. The Chair will now unlock the machine. Will you please direct your attention to the board to see if you have voted as you desire? Have all those voted who have the right to vote? Does any member desire to change his vote? The Chair will now lock the machine.

The Clerk will please announce the result of the vote.

THE CLERK:

Again, with the House membership being presently constituted

FPD
211

as 278, those voting Yes, 131; those voting No, 125; those absent and not voting, 22.

THE SPEAKER:

The ayes have it. The bill is passed.

Will the Clerk please read the resolution?

THE CLERK:

House Joint Resolution No. 200. Resolution on the Death of Honorable Robert R. Keeler.

THE SPEAKER:

The gentleman from West Hartford.

MR. SHEEHAN OF WEST HARTFORD:

Mr. Speaker, I would ask for suspension of the rules for the immediate consideration of the resolution.

THE SPEAKER:

Questionis on suspension of the rules for the immediate consideration of the resolution. Is there an objection? Hearing none, the rules are suspended.

MR. SHEEHAN OF WEST HARTFORD:

Will the Clerk please read the resolution?

THE CLERK:

Resolved by this Assembly:

Whereas, the members of this assembly learned with shock and deep regret of the death of the Honorable Robert R. Keeler, Representative from the Town of Ridgefield; and

Whereas, Mr. Keeler has served with honor and distinction as a member of the House of Representatives in the sessions of

S-33

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May we return to page two, Calendar 534? May the Clerk read that bill?

THE CLERK:

Calendar No. 534. File No. 570. Substitute for Senate Bill No. 492. An Act concerning Family Relations Sessions of the Superior Court.

Favorable report of the Committee on Judiciary and Governmental Functions.

SENATOR SCANLON:

Mr. President....

THE CHAIR:

Senator from the 6th.

SENATOR SCANLON:

I move for acceptance of the committee's favorable report and passage of the bill.

THE CHAIR:

The question is on the acceptance of the committee's favorable report and passage of the bill. Will you remark?

SENATOR SCANLON:

Mr. President, this bill concerns the establishment of a family relations sessions in the Superior Court. This bill does not purport to set up a separate court as such. It purports to set up within the Superior Court a separate docket which will handle nothing but family matters. For some reason, some people have been objecting to the fact that we have come out with a bill that is not what it purports to be, but I would like the record clear, that we at no time have ever claimed that this was a separate court. It is

just a separate docket for them, the Superior Court. We have gone as far we think as we can in this field within the bounds of the constitution. There is serious question as was brought forth in the executive session by the judges of the Superior Court and as we received in correspondence from others that to try to set up a separate court would be without the constitution and the court would be invalid. This is as far as we thought we could go; we have brought all matters that we felt were proper and that concerned the family within one group that will be heard on a separate docket. It will be heard by members of the Superior Court. It will not be on special assignments to this court. The court as a whole will take in their turn their turn to preside over this separate docket. Innovations in the bill which we thought we could put in and not run any danger of going without the conatituion. There is provision here for attempts of reconciliations by referees or other persons appointed by the court. There are many features that we feel will help in handling matters relating to the family. Many of which were available to the judges of the Superior Court, but were not utilized to any great extent ; in the manner that they had to operate before wasn't feasible. We think that now they will be able to take advantage of all the powers they have as Superior Court judges and handle family matters in this manner, they will be able to do a much better job within the field. Also, at the end of this bill you, there is no attempt to hide this either; there is provisions for putting the juvenille judges on the same plane as the newly created circuit judges; their salaries will be raised to fifteen thousand as our circuit court judge's salary is.

They will receive the pension benefits which were not available to them before as the circuit judges have to them available. We felt that these judges performed at least a valuable service to the people as will the new circuit judges. This is a good bill and it is an honest attempt to try to solve this family court problem and we didn't feel that we could go as far as a separate court. We have incorporated in this bill every thing that we feel was and is proper in this field. It is a good bill and should be passed.

THE CHAIR:

The question is on the acceptance of the committee's favorable report and passage of the bill. Will you remark further?

SENATOR CADY:

Mr. President, I yield you to the Senator from the 14th.

THE CHAIR:

Thank you Senator. Senator from the 14th.

SENATOR SCHAFFER:

Mr. President and members of the Circle, I feel that this bill represents a counter step towards the goal of a family court. The creation of a complete and separate court which would have jurisdiction over all of the matters concerning the family is a point to which those who have been interested in the creation of this court has striven. There are constitutional problems involved, involving the jurisdiction of the Superior Court which has impeded the formation of an independent family court. It is my hope that this bill will mark just the initial step. I intend to vote for this bill with the sincere hope that this legislature will

not deter further action on the creation of a true family court. I do not feel that this is the intent of the bill.

THE CHAIR:

The Chair will now recognize the Senator from the 31st.

SENATOR CADY:

Mr. President and members of the Circle, I have no objection to this bill as long as we recognize this for exactly what it is. No new judges are created and no new duties is created and no new jurisdiction is conferred upon the Superior Court, but at a result of this bill. I believe everything that is included in this bill is already within the rule making progress of the Superior Court at the present time. I don't really see any need for passing this legislation at this time. The only purpose that I can possibly see is that we do by passing such legislation impress upon the Superior Court that are interested in family sessions of the Superior Court of all of the problems affecting that particular problem can be taken up at the same time and by the same judge and followed through by that particular judge to a logical conclusion. I just hope that this bill will not be used as a basis for saying that we have an active family court legislation. I say again it is not only my opinion but to talking to others, we are doing nothing that the Superior Court judges do not already have within their power.

THE CHAIR:

The question is on the adoption of the committee's favorable report and passage of the bill. Will you remark further?

SENATOR BARNES:

Mr. President....

THE CHAIR:

Senator from the 5th.

SENATOR BARNES:

Mr. President, I also feel that this is unnecessary legislation and as such I rise to oppose it. I feel that I must vote against it and I think that as the Senator from the thirty-first has pointed out. This bill has absolutely nothing to the present law. These functions could be carried out by the Superior Court under their rule making authority without any additional help from the legislature and as such its legislation which will not only clutter up the statutes, but I am afraid may prejudice efforts in the future to establish a genuine family court. The three organizations who have worked, which has worked principley for the passage of this type legislation; the bar association, the league of women voters and the citizens for better court have all opposed this bill for at least pointed out that it does not do what their initial hopes, hoped it would do. I feel that I must do the same. I point out also that both party platforms in the last election called for the establishment of a family court and I don't feel that this bill satisfies the requirements of the wording of either platform. The essential features of a famuly court in terms of the ideal, in terms of what people have been working for, who believe in this type of legislation and this type of special family jurisdiction are only threefold. One is the requirement of judges who specialize in this type of case. Judges who will hear no other cases except cases involving family jurisdiction. In addition a

staff of trained personnel who will work with those judges with an emphasize on rehabilitation. Finally, a grouping in this one court of all of the various aspects jurisdiction which pertains to family matters. I am aware of the constitutional questions which have been raised about the establishment of a family court. I think that they are debatable. Nevertheless, the arguments do exist, but as far as the grouping of jurisdiction is concerned, I do not believe that anyone maintains there is a constitutional question. In other words, I see no reason for a jurisdiction of adoption and so forth; the jurisdiction which is now found in the Probate Court could not be transferred to the Superior Court and likewise I see no reason why the jurisdiction presently in the Juvenille Courts could not be transferred to the Superior Court. I know of no constitutional limitation against the transfer of those aspects of the jurisdiction of those two courts. Which would mean that the Superior Court would then have in its family court division, if you want to call it that, or its family court sessions if they are to be called that. The ability to hear cases and deal with all of the facets of the case having to do with the family problems and as it now stands, as you know, serious family problems can be divided up three ways between three courts; the Superior Court, the Juvenill Court and the Probate Court with sometimes overlapping jurisdiction and certainly the danger anyway of conflicting authority and conflicting decision on the essential problem which is the family unit. I feel that I must vote against this bill, although I am in favor of the principle of the family court bill. I feel that this bill does nothing; I feel that it

does not satisfy the requirements of either party platform and it is just going to be an additional piece of legislation on our books which will further complicate the state's statutes, clutter them up so to speak and add nothing to the body of sections of law in this field.

THE CHAIR:

Will you remark further?

SENATOR SCANLON:

Mr. President.....

THE CHAIR:

Senator from the 6th.

SENATOR SCANLON:

The Judiciary Committee would have been very happy to have been able to come out with a complete new family court if it was felt that this was at all possible. From all sources, but one, which source we respect, however the preponderance was clearly to the effect that to attempt to set up a completely new court would be without the constitution. First there would be a problem as to infringing upon the jurisdiction of the Superior Court. Second, we would be infringing upon the rule making powers of the Superior Court if we tried to restrict the pwers. Third, we felt that there was danger that if we tried to assign by law the judges of the Superior Court to this one type of work, we would be in danger of restricting the area within which the Superior Court judge could operate and he would be barred by this law from operating the other duties acquired by him as a Superior Court judge. In so far as transferring the Juvenille Court functions to this new court, we

found no one that came before us was not satisfied with the manner in which the Juvenille Court now operates. We have in this area trained judges who are completely devoting their efforts towards problems of juvenilles. They are doing a good job as far as the committee could find out. We feel that certainly the problems of the juvenille are better left with these people who concentrate on their problems, rather than to try to transfer them in to this branch of the Superior Court where the judges would be (indistinguishable) without the field of the family court in order that they could take care of the other duties required of them as Superior Court judges. This is definitely as far as the committee felt it could go in this field without going afoul of the constitution.

THE CHAIR:

Will you remark further?

SENATOR BARNES:

Mr. President....

THE CHAIR:

Senator from the 5th.

SENATOR BARNES:

I would not want my remarks taken as any criticism of the present Juvenille Court. On the contrary, I think that the present Juvenille Court might as well serve as a model for an ideal type of family court if this jurisdiction were expaned. In fact that was really the intent of the bar association bill which was introduced earlier in the session. The family court under that measure in effect became an expanded type of Juvenille Court with the judges handling just that type of case. However, I am aware that

constitutional question existed and as long as substantial number of people felt that a separate court not be created, but rather that this be handled within the Superior Court, then if that is to be taken as so, it, then the next best alternative to be expanding this Juvenille Court or creating a separate court is to transfer the jurisdiction of the Juvenille Court and the Probate Court in the Superior Court so that all of these matters can be handled in the same place.

THE CHAIR:

The question is on the adoption of the committee's favorable report and passage of the bill. Will you remark further? If not, all those in favor will signify by saying "aye", those opposed "no". The "ayes" have it. The bill is ordered passed.

SENATOR HEALEY:

Mr. President...

THE CHAIR:

Senator from the 10th.

SENATOR HEALEY:

Mr. President, because the Chairman was out of the chamber, we passed the matter that is on page three. May we go to Calendar 562 on page three?

THE CLERK:

Calendar No. 562. File No. 613. Senate Bill No. 369. An Act concerning the Penalty for Violation of an Act Concerning the Inspection, Storage and Transportation of Hazardous Chemicals.

Favorable report of the Committee on Public Health and Safety.

SENATOR HEWITT: