

Legislative History for Connecticut Act

SB 752	scanned LVR PA 677	 	<u>1959</u>
(Joint tenancies)			
Senate	3818-3820		3 p.
House	5686-5687		2 p.
General Law	591-600		10 p.
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— — — — —
PART 2
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John Edwards, Tax Collector, Wethersfield: (continued) goes. . . to Florida, what do we do? We don't usually get the money, I mean in the absence of an agreement of the two parties.

Chr. Alfano: You have your rights against the purchaser then, after 14 days' notice. . . the amount of the purchase price.

John Edwards, Tax Collector, Wethersfield: I don't know, I mean I've been advised by my Town Counsel, but in the absence of an agreement between the parties. . . there again, I'm not a lawyer and I more or less have to depend upon what lawyers tell me. I have had situations similar to that where a dry cleaning establishment was sold and the seller gone out of State, and there was no agreement between the purchaser--for the purchaser to assume the tax and I've been advised that I had no action that I could take.

Chr. Alfano: Is there anyone else on S. B. 747 (Sen. Barnes) An Act Concerning Single Payment of Property Taxes. Is there anyone in opposition to S. B. 747? If not the hearing is closed on S. B. 747, and the hearing is now open on S. B. 752.

S. B. No. 752 (Sen. Alfano) AN ACT CONCERNING JOINT TENANCIES AND SURVIVORSHIP DEEDS.

Rep. Wells: Mr. Chairman, may I state that Mr. Goldman contacted me; I think he wrote a letter to the Committee as well, asking that it be deferred if possible, for two weeks. There is a Substitute Bill they're working on and they'd like an opportunity to get that in. Is there anything like that, some--

Aaron Nassau, Asylum Street, Hartford: So far as Mr. Goldman's letter to the Committee, may I say first of all that I'm appearing here as chairman of a committee appointed by the Real Property Section of the State Bar Association, which was charged with the duty of suggesting legislation which would deal with the problem of so-called survivorship deeds. The committee has met on a number of occasions, and it entrusted the task of drafting this Bill to Professor Edward L. Stevenson of the University of Connecticut Law School, and the Bill as it appears before you is primarily his work with some changes and minor suggestions from the other members of the committee. Mr. Goldman had last written requesting some other changes, but I don't believe they're of any substance of nature. I believe the Bill, with a revision which I have here, which I would like to offer, is a desirable Bill and I don't believe that any further changes would materially affect the Bill. So far as the purpose of the Bill; the problem arose by reason of the fact that there has been a widespread use of so-called survivorship deeds, particularly in the acquisition of residential property by husband and wife. The legal incidents, however, of that sort of a deed have never been satisfactorily established in this State. In the last couple of years we've had two cases that went all the way to the Supreme Court of Errors, with the net result in the first case, the court said this survivorship deed created an estate of its own kind, not similar to any we've had in the past, and in the second case

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Aaron Nassau, Asylum Street, Hartford: (continued) didn't answer the question at all. There will be problems involving the nature of an interest acquired . . . survivorship, and this Bill is designed to settle those problems. Primarily, what the Bill does is to turn survivorship deeds, so-called, into common law joint tenancies, with the incidents as a common law of survivorship and severability; however, to determine what these incidents are would require research that the ordinary lawyer might not be prepared to make, and so the Bill spells out the specific incidents that are believed are desirable. We would recommend adoption of this Bill in its substitute form. The Substitute Bill is substantially the same except for changes of verbiage mostly. The only substantial change that's made is the provision that in the event of an attachment, the rights of the attaching creditor will persist even though in the meantime his debtor has died, in other words, the attachment will constitute an encumbrance on the land in the hands of the survivor also. Professor Stevenson, who drafted the Bill is here, and if any members of the Committee have any questions, either he or I will be glad to answer them.

Rep. Barnes:

As I understand it, this proposed Bill is an entirely new statute containing twelve sections. Do you know whether or not, in the statutes, there are any other provisions applicable to this?

Aaron Nassau, Asylum Street, Hartford: There are not, and we believe that the other sections of the statute jibe with these provisions, because there are a number of statutory provisions which refer to joint tenancy. This Bill provides that the provisions of the statute applicable to the joint tenancy shall be applicable to the interest created by this Bill.

Chr. Alfano:

What is the present effect of a judgement lien on an interest in a survivorship proper?

Aaron Nassau, Asylum Street, Hartford: Well, in the case decided a couple of years ago by the Supreme Court, the Court held that if an attachment was levied or made on the interest of one of the joint tenants, and that tenant died before judgement was obtained in the action, the attachment was defeated and the survivor took the estate free of the debtors rights--of the creditor's rights. The Substitute Bill proposes that the attaching creditor's rights be preserved so that the survivor would take the estate subject to the rights of the creditor, and if the creditor eventually attains judgement, then he would treat that as a severance so that if there were two people involved, the creditor would have judgement which he could levy on half of the property.

Rep. Wells:

Judgement would be against only half of the property, then?

Aaron Nassau, Asylum Street, Hartford: The proportional share. If there were only two, it would be half. In other words, what we're saying is that there shall be a severance so that while they own it jointly, and nothing happens in between, the survivor shall take it all. If the creditor, in the meantime comes in, he

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Aaron Nassau, Asylum Street, Hartford: (continued) would be able to reach half of the property belonging to his debtor.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law, and a member of the committee to which Mr. Nassau referred. I think it would be in order to point out to the other members of this Committee; a Mr. Frank Goldman, who has already addressed the Committee; Professor Quinton Johnstone, of Yale Law School; Mr. Phillip Rinehart of Bridgeport, and with the exception of Mr. Goldman, I think the committee is in accord with the Bill and I think Mr. Goldman's objections are--rather, go to the form than to the substance, and they have been considered and he has raised a large number of them, some of which the rest of the committee has gone along with and some of which have been rejected. I don't know that he has anything further of substance, if so, he has not brought it to the attention of Mr. Nassau or me. Basically, I think, if we bear in mind that the function, primary desire of parties taking property in survivorship is to provide for the passing of the property upon the death of one of them, to the survivor, and that there has been no real attention to the nature of the rights of the parties among themselves or the rights of creditors of either one or both. This Bill is an attempt to preserve the primary objective of the holders of property in survivorship by providing that it shall go to the survivor, if nothing interferes during the course of their lives. Reduced to its rather simple terms, you could say that during the lives of the two parties they can by appropriate act, treat the property as if they owned it in common; they can separate it and treat it as if they owned it half outright, and their creditors can to the extent necessary for the protection of the creditors, do the same thing. In other words, the survivorship provision is fully protected and preserved for the property during their lives is regarded as being capable of being treated as a divided ownership, independently by each of the tenants. I think that is what the people want in getting the survivorship deeds. I think it is consistent with our public policy of this State, not to put any of this property beyond the reach of being dealt with by the owners or by their creditors, and the Bill, in addition, clears up a large number of very obscure problems of joint tenancy, which even Blackstone said were a relic from the Feudal Age. When you talk about the four unities, as Judge King was forced to in a recent decision, trying to determine the rights of parties to the real estate they own. I think the time has come for a re-statement of the law of survivorship deeds in something more modern than jus accrescendi et al.

Rep . Barnes: Was the Probate Assembly consulted when this statute was drawn up?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Not that I know of, sir. (answering question from audience): No, I don't believe so. What happened here was that this one was prepared at the request of the State Bar Association. . . . section was submitted to the Legislative Committee of the State Bar Association . . . approved it, but I don't believe that it was even submitted to the Probate Assembly, and actually it

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Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: (continued) doesn't involve any problem of probate law, because it's a problem of the interests existing during their lifetime, afterward the . . . I might say, too, that Mr. Locke has seen and approved at least in principle, Mr. William Locke has approved at least in principle, the basic provisions of this Bill.

Chr. Alfano: Professor, I'm not clear on one thing. What effect would a judgement lien on one of the interests of the survivorship property have so far as an execution is placed thereon, could that interest be sold during a lifetime of either one of the parties?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Yes, if the attachments were prosecuted to judgement and a lien filed, or if simply a judgement lien were placed on the property of one of the owners, then the interest could be sold to the extent necessary to satisfy the judgement; just as if they owned the property in common rather than in survivorship. Any surplus would still remain subject to the portion of the interest not sold--would remain subject to the survivorship provision, because the severance operates only to the extent necessary for the protection of the creditor.

Rep. Wells: How does this effect the present right of partition of joint tenants in survivorship, if at all?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: This would simplify it by allowing them to separate their interests, well, number one, there is a provision in the statute which provides that property held in joint tenancy can be partitioned. That statute is made applicable to the . . . so that there could be partition among joint tenants, or if they wished, they could by simple instruments sever their interests into that of tenancy in common without a physical partition of the . . . problem.

Chr. Alfano: I haven't read this thoroughly yet, but can a survivorship interest be created by a husband in a conveyance to a wife in this particular statute?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: It could be created by, one, in that we have eliminated the need for the straw man, so there can be created a grantor can be one of the grantees to take this property in survivorship, which eliminates one extra step in the process. . . the third line, "to two or more natural persons, among whom may be the grantor or grantors". So that the straw man is eliminated.

Rep. McGee: Does this change the present law, with respect to a widow who may have thought she . . . survivorship, by virtue of never having . . . away the . . . of the husband had deeded his portion away and therefore she's left with a half a house and therefore obliged to move out with her family when he dies.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: It

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Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: It doesn't change anything, because we have no idea what the present effect of a conveyance by one of these parties would be. We don't know what estate is created. If the survivorship deeds create a common law joint tenancy, then the husband under existing law could do exactly that. If the survivorship deeds do not create a common law joint tenancy, but an estate of its own nature, sui generis, as the court says, or create estates with contingent remainders, your guess is as good as mine, as to what can be done by the parties during their own lifetime. I doubt that the Supreme Court would say that this interest was incapable of being alienated by the parties, that it was an inseverable joint tenancy. This clarifies it; makes it a severable interest, each party being capable of being able to deal with it by himself, preserving the fundamental purpose of this, which is. . . . don't do anything during their own lives. In other words, if they want in estates, something equivalent to the old common law tenancy by the entirety, which had to be preserved intact during the life of the two of them. The committee felt not, so that we have not made it impossible for either party to deal with his own interest during the lifetime.

Rep. Jacobson: Professor, how would this affect the tax . . . which is taking into consideration usually when you write a survivorship deed definition of income used on the . . . level anyway, is when you have control over it, when you can use it.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Well, this would make it a joint tenancy under--

Rep. Jacobson: Which would mean a . . . well, if you sold it, it would be taxable as under the capital gain. . . .

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: . . . it seems to me put half of the interest in. . . because it is subject . . . their control through voluntary action.

Rep. Wells: Is this a correct statement? that one, say a husband or a wife having some property in joint tenancy would write a survivorship, the husband could go ahead and sell his interest in that property during his lifetime, and would it then be in survivorship form with the new buyer and the wife?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: No, it. . . with the person . . . into undivided one-half interests in common. That, we think, is the existing law, and we don't think we're making a change but we don't know, because nobody knows what the existing law is.

Rep. Aronson: One step further, if for example, a mother and two children owned the property in survivorship, say there were a son and a daughter, and the son sold his interest, then the remaining interest would still be a survivorship between the mother and the daughter.

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Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: (continued) That's right. This is a common law, only affecting interests actually conveyed out, leaving it joint as to the remaining joint tenants.

Rep. Wells: It wouldn't need the consent or the signature of the other joint tenant in order for one to sell, would you?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: That's right. In a broad way, you could look at this as saying that the deed here operates to create a--what is in substance--a tenancy in common between them, with a provision that it goes to the survivor, almost a testamentary disposition of the property. That is in substance about what we are accomplishing, but we have to do it in a more complicated way, because we have to make it conform somewhat, at least, to familiar concepts of land law, otherwise we are creating something that is really sui generis.

Rep. McGee: What socially is . . . making this tenancy in common in that way. I'm thinking in terms of . . . substantially used in husband and wife relationships in family relationships--now what is the social advantage of . . . selling his house, at least a half of it, out from under the wife, without her consent?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: The failing that the State of Connecticut has not adopted any community property concepts in any other area, or in real estate, that with the Married Women's Act of 1877, the unity of husband and wife was dissolved, each is an individual, that they can own property, their own separate estates; they can have separable interests in the same property if they wish, but the community of husband and wife, which you'll find in the other--community property States has never been established here. That you create an inseverable interest here, not only puts it beyond the power of the husband to deal with it; it would put it beyond the power of the wife to deal with it, and it would make it immune to the creditors of each, and we don't think it is good public policy to have this property, valuable rights, which are not subject to the claims of the creditors.

Rep. McGee: What you're saying then is, that you're putting the rights of the creditors above the rights of the family, and particularly the wife--the rights of the mother and children.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: If the legislature wishes to create a community property concept; wishes to create a homestead exemption, that is something else again, but if the homestead is to be immune from dealing with by the husband, it should be equally immune, whether it is held in survivorship, outright by the husband or as tenants in common. It's a homestead exemption concept; a limitation on what the husband can do with the homestead. I think that its . . . , rather than anything peculiar about this, so that if we're going to do anything with the homestead, I think it should apply to all kinds of ownership in the homestead, not just to this peculiar one.

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Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: (continued) That should be done by separate enactment, I think. There are State that require that the wife consent to any sale of the homestead.

Rep. McGee: Would you say that the uncertainty of the law today has deterred individual transfers by one of the spouses over the past years, as indicated by apparently, the few numbers of law cases arising on the interpretation of this?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: I wouldn't think so. I think that the great bulk of these properties are held by married people who remain married couples with the interest in the family, that there would be no difference if it were held outright by the husband with a will in favor of the wife. No change would be made. I don't think this would encourage separate dealing by the husband.

Chr. Alfano: Isn't there a statute on the books now in regard to alienation by one spouse in a survivorship interest, jointly owned property as severing the interests?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: There was an abortive statute in 1948, which lasted one year, I think, attempting to establish that a sale by one would continue the survivorship incident, but that created so many problems that were immediately apparent, that it was repealed at the next session of the legislature.

Mr. Carr, Bloomfield: You speak about the survivorship form, and the husband deeding his piece of property over. Under survivorship, while they're living, that's an undivided half-interest, is it not? Then, how can John Jones turn over his undivided half-interest without Mary Jones' signature to that deed?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: He has a half-interest in the property, and she has a half-interest in the property--

Mr. Carr, Bloomfield: But it's an undivided half-interest.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Yes, but an undivided half-interest is just as alienable as any other property interest.

Mr. Carr, Bloomfield: Yes, but, then they couldn't sell just the undivided half-interest. Mary Jones would have to put her signature to that deed when it was sold by John Jones to Bill Smith, and therefore she would have her rights--she would not sign the deed.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: I don't see how this could prevent a tenant in common from selling a half-interest into his property, merely because another tenant in common, objected.

Mr. Carr, Bloomfield: Well, I don't know, it's an undivided half-interest, and if

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Mr. Carr, Bloomfield: (continued) she wouldn't sign that deed, that nullifies that deed, does it not?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: He's not purporting to sell her half-interest, he's selling his. Alright, now, his half-interest he can deal with just as well as if it were a segregated interest.

Mr. Carr, Bloomfield: I can't see it, but you may be right. How about the attachments on them, during the lifetime then you say for half interest, could then someone come along and attach 75% of that, or just a half against John Jones?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: If it was a creditor of John Jones he could attach John Jones' interest.

Mr. Carr, Bloomfield: Just a half.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Just a half, as was done in the New Haven Busman's Trolley Case, and it was upheld by the Connecticut Supreme Court of Errors.

Mr. Carr, Bloomfield: Still, it's an undivided half-interest until they come to the death--

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Yes, but the new purchaser becomes a tenant with the wife, and if they can't arrange for the enjoyment of the property, then you'll have partition.

Mr. Carr, Bloomfield: If you were searching the title on a piece of property owned by John Jones and Mary Jones, then would you pass that title with John Jones the only one signing.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: There are hundreds of these in the land records, where the owner of an undivided half-interest has conveyed his half-interest to somebody else, without a signature by the other tenant in common. They're passed every day of the week.

Chr. Alfano: It's my understanding that about all this Bill is doing is trying to clarify what we believe the law to be at the present time, is that right? and to eliminate the mass confusion that there is on survivorship.

Rep. Aronson: Mr. Chairman, if I may, on that point that Mr. Carr was raising, as the law exists today, we would not pass the title if only one person conveyed to a third person, and we would only pass the title if they conveyed their interest to the other person on the survivorship deed.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: If it's a survivorship deed.

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Rep. Aronson: We're talking about survivorship deed. If they convey to someone other than that, we would not pass the title. What they are proposing to do by this law, as I understand it, is to make such a conveyance possible, because if the law exists today, exactly what interest the two people have, the husband and wife, presumably, have while they are both alive is not clear. It is not clear until after the death of one of them, then they know that the other one owns the property. . .

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: I think our disagreement may have been that I was assuming that you were talking of tenants in common. There is this difficulty on joint tenancy, as to whether or not it is currently transferable by one of the joint tenants. I think it is, under existing law, but I wouldn't pass a title. . .

Sen. McCarthy: Now I'm getting confused on this. You have the law of joint tenancy, not the survivorship, the basic law of joint tenancy and the basic law of tenancy in common. Now, as I recall, a joint tenancy is severable, when you transfer, say, an undivided half-interest, then the third person becomes a tenant in common with the original owner of the other undivided one half. Now, as I see this Bill, and what you're attempting to do here, is to make a survivorship of Connecticut's survivorship deed similar to a joint tenancy. In other words, then the common law of joint tenancy, or our statute law would apply, so that one survivor, one of the two, a husband and wife on a survivorship deed, would be able to transfer, and the third party would then become a tenant in common, similar to a joint tenancy.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: And restating the law of joint tenancy along with it, with some changes that I think are vitally needed, such as a mortgage does not sever joint tenants, as it might.

Sen. McCarthy: As I get the concept, in this State the survivorship deed mainly points to a husband and wife combination because if it was, say, three people or four people on a survivorship basis, actually they would be joint tenants, they wouldn't transfer actually by a survivorship deed, necessarily, but as joint tenants spelled out in the deed.

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Well, it's been done both ways. Brothers and sisters and parents and children; two couples, really getting very popular and widespread in a variety of forms.

Rep. Aronson: You made a statement just then about a mortgage not severing the right of survivorship. Assuming one party puts a mortgage on his interest, if the mortgage were foreclosed it would sever it wouldn't it?

Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: Oh, yes, the mortgagee is protected, but a mortgage by both of them since it is a conveyance of the legal title out to the mort-

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Edward L. Stevenson, Professor of Law, University of Connecticut School of Law: (continued) gagee, and common law would destroy the unities and destroy the incident of survivorship. We've eliminated that possibility. I think it's ridiculous, and we've similarly cleaned up some the other old . . . of common law joint tenancy.. .

Chr. Alfano: Are there any other proponents of this Bill? Is there anyone who would like to speak in opposition to this Bill? The hearing on S. B. 752 is now closed. S. B. 752 (Sen. Alfano) An Act Concerning Joint Tenancies and Survivorship Deeds. The hearing is open on S. B. 755.

S. B. No. 755 (Sen. Barnes) AN ACT CONCERNING TAX LIENS ON PERSONAL PROPERTY

Mr. Carr, Tax Collector, Bloomfield: Can't say much more than what Mr. Edwards has said, outside of the fact that this lien on personal property is for the protection of the towns, it isn't causing a hardship on anyone; it's a just tax. That's the reason why we feel that we should have one. It does, perhaps, put a little more stress on what an attorney should do in finding out if the taxes are paid or who they will be paid by, as to the record owner of a certain date, after that has passed and the transfer has been made after that date. You speak about your intent to sell in fourteen days, well, there's many, many towns that do not have that cooperation between the departments, and that's why we are asking for this Bill to be put in, so that it will anchor the tax payment on the person receiving the goods, which while we can, as a rule follow through on who received the goods, we can't follow through on the person that jumps the State, and that's our reason for it.

Rep. Wells: Would anything actually be put on the records of the town to show this lien was being held there, or is it just one of those things that everybody's supposed to know about?

Mr. Carr, Tax Collector, Bloomfield: On personal property, a list has to be made out by a person owning personal property, other than automobiles, as of the record date, so that it anchors it on to John Jones if he's to sign that. Of course, if he didn't sign it, then the assessor has the right to place that with any evaluation that he sees fit, or take last years, of course there's a 10% penalty on that which cannot be touched through any tax review board.

Rep. Wells: What I meant was if a buyer is going to purchase part of this property, personal property from somebody else, there's nothing in the record to show that such a lien exists, is there? He just has to go and find out if that tax has been paid before he purchases it.

Mr. Carr, Tax Collector, Bloomfield: That's right. Just the same as your implied liens against real estate. The only difference is that there will be an implied lien on your personal property, but it will

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HOUSE

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In line 27, delete the period and add 'provided none of the capital stock of any such corporation carrying on a mortgage loan business shall be owned directly or indirectly by any foreign banking corporation or any officer, director or affiliate thereof'".

THE SPEAKER:

The gentleman from Manchester.

MR. ARONSON OF MANCHESTER:

Mr. Speaker, this Amendment is the final step in the compromise of the original Senate Bill 941. This now takes care of all the parties in interest, and I sincerely urge the Adoption of this Amendment.

THE SPEAKER:

Will you remark further. The question is on Adoption of House Amendment Schedule "A". All those in favor please say 'aye'. Opposed 'no'. The 'ayes' have it. The Amendment is Adopted. Do the Majority and Minority Leaders waive the printing of the Amendment. Ordered to the Legislative Commissioner for his approval.

MR. ARONSON OF MANCHESTER:

Mr. Speaker, I believe Calendar No. 1998 on page 20, is noncontroversial.

THE CLERK:

May I inquire as to whether Calendar No. 1998, File No. 1506, Substitute for Senate Bill No. 752. An Act concerning Joint Tenancies and Survivorship Deeds. Committee on General Law.

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THE SPEAKER:

The gentleman from Manchester.

MR. ARONSON OF MANCHESTER:

Mr. Speaker, I move for Acceptance of the Committee's Favorable Report and Passage of the Bill in Concurrence with the Senate.

THE SPEAKER:

The question is on Acceptance of the Committee's Favorable Report and Passage of the Bill in Concurrence with the Senate. Will you remark.

MR. ARONSON OF MANCHESTER:

Mr. Speaker, this is much needed legislation to define exactly what interest that probably most of us have in the real estate that we own. Probably most of us in this House own our own homes in survivorship. The exact interest that each individual has has never been defined and that is the purpose of this Bill. It is a very important Bill. I don't want to go into all the details of it. This is a noncontroversial matter, but if anyone has any questions I will be glad to answer them. I sincerely urge the adoption of this Bill.

THE SPEAKER:

Will you remark further. The question is on Passage of the Bill in Concurrence with the Senate. All those in favor say 'aye'. Opposed 'no'. The 'ayes' have it. The Bill is passed.

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MONDAY

JUNE 1, 1959.

THE CHAIR:

Senator Burns.

SENATOR BURNS:

With due respect to Senator Kerrigan, I wonder if I could undertake to answer this question. As I understand the practice of origination fees is to, the purpose of that is to pay for the cost of appraisal and as Senator Kerrigan pointed out, the cost of preparing papers but it's chiefly for the time spent in the examining of the property pertaining to the mortgage and in examining the application, preparing the application, etc.

THE CHAIR:

Are there further remarks? If there are no further remarks, the question is on acceptance of the committee's favorable report and passage of the bill. Those in favor signify by saying "aye". Opposed. The bill is passed.

THE CLERK:

Cal. No. 1780. File No. 1506. Substitute for Senate Bill No. 752. An Act concerning Joint Tenancies and Survivorship Deeds. Favorable report of the Committee on General Law.

THE CHAIR:

Senator Alfano of the 7th District.

SENATOR ALFANO:

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

THE CHAIR:

Remarks?

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JUNE 1, 1959.

SENATOR ALFANO:

Mr. President, members of the Circle, I know of no legislation that's probably been more needed in the State of Connecticut than the adoption of a measure along this line and defining the legal interests that are created by a survivorship deed. Over the past ten or fifteen years substantially all conveniences of real estate are to husband and wife or to others in survivorship. There's been a great deal of concern upon many many attorneys and the people who have ^{taken} title of the property in survivorship. Our courts up to today have never fairly defined the interest that have been taken as the result of a survivorship deed. Or defined all the other contingencies that are involved in creating property in survivorship. Now, the Connecticut State Bar Association had appointed a committee which made a long study of this problem and they worked with Professor Stevenson of the University of Connecticut Law School. And as a result of the study, they have drafted the present act which is File No. 1506. And this act attempts to cover every aspect of the survivorship deed that the affect an attaching creditor would have upon a survivorship interest, the affect of a judgement lien upon a survivorship interest in the property. Every other aspect of this situation has been thoroughly covered and I say that for the first time I think that not only the lawyers but the laymen will know what they will get when take an advance by way of survivorship in the deed today. I think this is a very good bill and it should pass.

MONDAY

JUNE 1, 1959.

THE CHAIR:

Are there further remarks? If no further remarks, the question is on acceptance of the committee's favorable report and passage of the bill. Those in favor signify by saying "aye". Opposed. The bill is passed.

THE CLERK:

Cal. No. 1777. File No. 1511. Substitute for Senate Bill No. 941. An Act concerning Limitations of Powers of Foreign Corporations. Favorable report of the Committee on General Law.

THE CHAIR:

Senator Alfano of the 7th District.

SENATOR ALFANO:

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

THE CHAIR:

Remarks?

SENATOR ALFANO:

This bill, Mr. President, is an attempt to enact into statutory form an attorney general's decision of the State of Connecticut. We have had a tremendous problem insofar as foreign banking corporations participating in commercial loans of Connecticut state banks. The problem that has arisen is the result of extremely large loans that are desired by industries in the State of Connecticut. When they contacted our commercial banks, they have been confronted with the problem of where the commercial bank either was unable to handle the loan because of its capacity to