

Legislative History for Connecticut Act

HB 5480 PA 401 1969

Hrg: 0

Sen: 2055-2065, 2129-30 13p

House: 2380-2406 27p

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1969

VOL. 13
PART 5
2032-2564

May 21, 1969

Page 22

posal would include Ladies Auxiliaries members and therefore they are not guests. Spouses of members or widows of deceased members. You will note in the file, the word "former" in the second line before the word deceased is included. This is a mistake in printing. The Journal of the house, shows the accurate wording and the word "former" is omitted. I don't see that it necessitates an amendment.

THE CHAIR:

Will you remark further on the passage of this bill? If not, all those in favor signify by saying, "aye". Contrary minded? The bill is passed.

SENATOR HAMMER:

I just want to remark on this bill, even though it has been passed. I just want to say that I think this is probably a softening up, among the members of my sex, for a very weak bill on women standing at the bar.

THE CLERK:

CAL. NO. 881. FILE NO. 436. Favorable report of the Joint Committee on Judiciary and Governmental Functions. Substitute House Bill No. 5480. An Act concerning the Statute of Limitations for Injury to Person or Property.

SENATOR HULL:

Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill. This bill extends the statute of limitations for negligence mal-practice and

May 21, 1969

Page 23

other such injuries from one year to two years. I move passage.

SENATOR FAULISO:

I rise in opposition to the bill. I've been a member of the bar for 30 years. And we're always seeking ways and means of raising the log-jam. The one-year limitation has been on books for sometime. This would make lazy lawyers lazier. It won't help the situation one iota. To wait two years for the commencement of an action will certainly create chaos. It also would help the Insurance companies to some extent, in that the reserves would be reserved for two years where there money would be making money. Whereas, with the one year statute limitation we can expect a resolution of the problem earlier. So that the claimant can get his money and certainly draw interest on that money, if he banks it or he can invest it.

I can't foresee in the extension of this statute of limitation to two years that it's in the best interest of the citizens of our state nor for the lawyers of this state. I think there is a small segment, a minority, at the bar that want more time who will procrastinate, who will delay and this is not to bring disgrace or dishonor or tell you something out of school. This is a fact. Lawyers must be alert. They must bring about an expeditious, they must bring about expeditious laws in their profession and the only way that I know to do this is to leave it on the books, the one year statute of limitations. The Judges want cases disposed of expeditiously. The Bar has been

May 21, 1969

Page 24

petitioning this for years, The American Bar Association .

Sure, there are states that have the two year limitation. But I can say to you, Mr. President, that in those instances, we truly, have a log-jam. We have done a wonderful job in the State of Connecticut. Let's not defeat that purpose, by creating a statute that can only create a complex problem, will only create more problems as afar as the log-jam is concerned. We're trying to break it. We're doing a good job under the auspices of our Chief Administrator Justice Cotter. And the Judges that are working mainly and daily, trying to solve this problem. I think that we ought to assist them by leaving this alone.

Now, there is no clamor for this change. I know of no lawyer, except the one who perhaps, initiated this, who perhaps, prevailed on the members of the Judiciary. I don't know any group of citizens. I don't know of any large group of members of the bar, who actually requested this statute of limitation.

So, I say again, and I repeat, and reiterate. This makes the lazy lawyer lazier and what we're trying to produce is an alert bar.

SENATOR BARNES:

Mr. President, I rise to oppose this bill, for several reasons. One of them is that, it seems to me in the best interest of the courts and judges of this state, if they can have the benefit of Senator Fauliso's argument sooner rather than later. But, in addition, it does seem to me that, beyond the argument

May 21, 1969

Page 25

that he advanced, the longer these cases sit before the pleadings are filed and closed. The colder the evidence becomes. The more difficult it is to reconstruct what actually happened and therefore, the more difficult it is to get at the truth of what the actual circumstances really were.

I have not been aware of any great clamor for this legislation. I think it would have the affect of postponing cases. And very possibly have the affect of not enableing the courts to adjudicate cases with the benefit of more recent estimates in evidence. I would hope that this circle would defeat the bill.

SENATOR IVES:

Mr. President, I rise, also , to oppose this bill, and mainly for one reason. I think it was the comments of the Senator from the first, but there is one other reason that I think overrides them all. This really means that, the people who are entitled to receive the money, have one year longer before they are paid, if they win their case. And with the court system the way it is, there are cases now, five or six years and to add another year, I suppose it mak es no difference.

But, let's not complicate the court system anymore than we have and let's get these cases settled quicker.

SENATOR BUCKLEY:

Mr. President, I rise in support of this bill. The argument that it's going to delay cases by extending the statute of limitations just didn't get across to me. Because, normally

May 21, 1969

Page 26

the statute of limitations has no bearing on any negligence case. Because negotiations are conducted, if there is insurance, with the insurance carrier, if not with the person who is allegedly responsible and when those break down, it's fruitless and the action is bought. Really, anybody who knows his business and who does his business properly probably doesn't even wait because the negotiations usually prove fruitless and are better conducted after a writ is issued. I see no marriage to the claim that this will delay any litigation one little bit. Basically the bill will help those people who are individuals who have been negligent themselves, in failing to pursue their remedy. Maybe because the extent of injuries were not fully known to them. That's the affect of this bill, in my mind.

SENATOR HULL:

I always like to hear Senator Buckley's reason and quiet tone as well as one of the more flamboyant speakers here.

I rise to support this bill with more flamboyance than I did before. Because I had not understood the Senator from the first to be so vigorously against this. This is not a lawyers bill. Don't think that every bill that comes out of Judiciary Committee is in defense of the lawyers, this is for the benefit of the people. We checked and found that only four states have a one year statute of limitations. Now, there are many people with little information, little knowledge, little sophistication we see this constantly in our courts, who are denied their things

May 21, 1969

Page 27

their claims because the time has come by and they didn't know it. This isn't for the lawyers. As Senator Buckley says, most cases of any substance, the lawsuit is brought up relatively quickly because you want to get it into court, where you normally have a better bargaining position, than in your law office.

Most state have five years, I believe New York, Massachusetts I know none of them surrounding us have one year. This will do two things. First, it will not, in my opinion, have any effect whatsoever, in clogging but it will enable the claimant continue to go without lawyers, which is good, as far as I'm concerned, if they can handle their case properly. Now, only in the past two weeks, have I had to, in the few minutes available for my law office, workd out some writs, for clients who come in and said, I'm going to settle it myself. They didn't do what they said they were going to do. I think I could settle it but the year is almost up. But if the time has gone by and the claimant is not quite sure that he has fully recovered. They have to put it in the hands of a lawyer. Only an attorney can sign that writ and bring a lawsuit before the year is up. It's forced in the lawyers hand. The second major reason is, we know more and more, now, that many many claims are not readily apparent. Now, there's an exception in the statute, when the injury was apparent or should have been known, now this is very hard burden to get over. And there are all sorts of back injuries, nerve injuries some immotional injuries. This is a people's

May 21, 1969

Page 28

bill. The average person. It has nothing to do with the laziness or the enrichment or negligence of any lawyer, at least, in the Danbury area.

SENATOR FAULISO:

Mr. President, you could tell whether or not a person has a negligence practice, and you can tell the extent of the negligence practice. I confess that my practice in the negligence field has been extensive. There are lawyers that wait for the very last moment, almost to the year, the very last day before they issue the writ. Why? Because truly they are lazy. Secondly there is an expense, an entry fee. Apparently they are dreamers because they want justice to come to their practice and put it on their desks. Now, what happens to a two year statute of limitation? You prolong it for two years. You're going to wait for the lawyers to sit on their haunches for two years and wait for the last day, to issue a writ. They don't want to spend the money. And those who are in the negligence practice and practice extensively, deplore, clients coming in at the last hour. They can't do justice to that client. Because the Insurance Company has made an investigation and received statements from witnesses, have taken photographs. They have compiled a complete file. And to take a case at the last moment, just before the statute of limitation expires, is to do an injustice to that client. It's better that that client do it alone. Try to get what he can on his own. Because he has given all the information, and the Insurance company has it in their file. It is a

May 21, 1969

Page 29

lawyers bill. It's a lawyers bill but only for the lazy lawyer. And I speak here for legions of lawyers that want to attend to their duties, faithfully. When you talk about the jurisdiction that have three years and five years. It's no wonder that they have a log-jammed throughout the country. We don't want this to happen in Connecticut. And when we talk about the fact that the injuries may not be definable or that a true prognosis has not been made, that still can be done, Mr. President, because the facts are forthcoming. And that a case has or may not be reached for trial perhaps, for two years. But the fact remains even if it isn't resolved, that that becomes a question of fact for a jury for a court, to make a determination what the value of the case is. So that I weigh all these arguments and I speak as a lawyer and maybe they might term me a renegade, they may think that this is not right that I am deserting the President of the bar. But I speak the truth. A truth that comes from 30 years of practice and I am pleased to state that much of my practice is in a tough field, the negligence field. And I know those Insurance^C companies that come to my office willingly, without exerting all the pressures, that I can exert as a lawyer. I know that in some companies, do this as a policy to wait until you are in a very foot in the doorstep of the courthouse, before they offer you a dime. So that it is important that you bring your action within the limitation of one year. And the earlier you do it, and truly you gain justice and quick justice. And this is not flamboyancy. I speak for the

May 21, 1969

Page 30

citizens of the state. I speak also, for the lawyers. This is wrong. I don't think the Judges or the bench welcomes this type of legislation.

SENATOR PICKETT:

Mr. President, I am not asking for the passage of the extension of the statute of limitation but rather the extension of the consideration of this bill, by one day. The distinguished Senator from the second district, personally asked to have this bill passed, retaining its place. I didn't realize that this was under deliberation until I walked into the Chamber a few minutes ago. However, I regretfully to you, Senator Fauliso, must ask that it be passed retaining its place, as I promised the Senator from the second.

SENATOR FAULISO:

Mr. President, we have exhausted the arguments. I think I know whereof the Senator is going to vote. It's quite obvious I think, that he has expressed his sentiment. To go over again with these arguments tomorrow, or the next day, I think is an imposition. I think I would ask for a roll call vote. I think you can make the announcement. And I think that the Senator would come to this chair and vote. I hope so because much time has been spent. It isn't because we don't want to extend the courtesy of holding it a day. But I don't see any reason, why we've got to go through this same row tomorrow or the next day. While these arguments are still fresh in our minds. I know one thing, once you argue a case before a jury and it's fresh

May 21, 1969

Page 31

in their minds, that's the time to take the vote. And I am proud to say that there are many people here, who are open-minded who are not lawyers, who will deal with this problem truly on its merits objectively.

SENATOR HULL:

Mr. President, I want to speak for the third time, with permission of the group in regard to the remarks about my poor law practice. I don't think it will be necessary because I'm going to suggest. It is only a matter of elementary courtesy. This bill isn't the end of the world. I think if the Senator from the second wants to put it over and there was a misunderstanding, I think we'd do that for any member of this circle, including our distinguished unflamboyant Senator from the first. I think that if he had said that he wanted to be heard, or make some position on a bill and thought it wasn't coming up and there's no time pressure on this bill. It's the courtesy that we're accustomed to in this Senate. I want to assure him that we'll remember his arguments, not only until tomorrow, but for years.

SENATOR FAULISOR:

Mr. President, I would also have the same courtesy extended. I realize the charm and the sweetness of the distinguished Senator. I hope he makes it. I think you are busy on your schedule and meeting with all the ladies throughout the state. I hope you prevail with your charm. However, this is not that

May 21, 1969

Page 32

that attractive to me. It is an issue of bread and butter. It's an issue of bread and butter for all the lawyers notwithstanding the Judiciary and the minority of the Judiciary. I speak for myself and I think that I speak for the legion of lawyers in this state. If it is a question of courtesy. I have never denied anyone the courtesy. But maybe a moment ago, I felt that it should be, but if it is put on that basis, then the courtesy perhaps ought to be extended and we'll wait another day.

SENATOR MARCUS:

Mr. President, might I suggest that in view of the fact that an inadvertent error was made, the request was made by the Senator from the second, I think it was agreed upon by all present that we would hold the bill. The bill was called in error. But, the arguments have been heard. They've been most effective on both sides. I suggest that we hold the bill, temporarily, possibly the Senator from the first, can meet with his colleague from the second, and if Senator Barlow will withdraw his request, we can come back to the bill before we adjourn today and vote on it.

THE CHAIR:

If there is no objection, the bill will be passed, temporarily retaining its place on the calendar.

THE CLERK:

CAL. NO. 900. FILE NO. 977. Favorable report of the Joint Committee on Education. Substitute for Senate Bill No. 889.

May 22, 1969

Page 15

completion that there shall be one additional year in which to bring an action. But in any event, no more than eight years from the substantial completion and also in Section 3, substantial completion is spelled out as being when the building is first used by the owner or tenant. Nothing in this act will be construed to extend the period of the statute of limitation in all other matters. I urge the passage of this bill.

THE CHAIR:

Will you remark further on this bill? If not, as many who are in favor signify by saying, "Aye". Contray minded? The bill is passed.

THE CLERK:

CAL. NO. 881. File No. 436. Favorable report of the Joint Committee on Judiciary and Governmental Functions. Substitute for House Bill No. 5480. An Act concerning the Statute of Limitations for Injury to Person or Property.

SENATOR PICKETT:

Mr. President, I move acceptance of the committee's favorable report and passage of the bill. I think we are all, well aware of the fact that the merits of this bill were argued at length, yesterday and therefore, I shall just move for passage.

SENATOR FAULISO:

Mr. President, I concur with the distinguished Senator from the 33. I think this was extensively debated yesterday. There is no point in repeating the arguments. I think the arguments are still fresh in the minds of the Senators. I would

May 22, 1969

Page 16

move for a roll call vote.

THE CHAIR:

Any further remarks on the passage of this bill? If not, a roll call has been ordered. The Clerk will announce that a roll call will be taken on Substitute for House Bill 5480.

THE CLERK:

The following is the roll call vote:

Those Voting Yea were:

SENATORS BARRY	SENATORS JACKSON
AMENTA	ALFANO
DIRIENZO	MARCUS
MILLER	TANSLEY
BUCKLEY	PALMER
GUNTHER	LYDDY
HULL	HICKEY
DUPONT	DINIELLI
PICKETT	FINNEY

Those voting Nay were:

SENATORS FAULISO	SENATORS BARLOW
BURKE	BARNES
EDDY	HAMMER
MOORE	DOWD
LUPTON	HOULEY

Those absent and not voting were:

SENATORS SCHAFFER	SENATORS VERRIKER
STANLEY	CALDWELL

H-99

**CONNECTICUT
GENERAL ASSEMBLY**

HOUSE

**PROCEEDINGS
1969**

VOL. 13

PART 5

2065-2591

Wednesday, May 7, 1969

12

THE SPEAKER:

Is there objection to any of these items being placed on the Consent Calendar? Hearing no objection of an individual representative, the items indicated will be placed on the Consent Calendar.

THE CLERK:

Page 6 of the Calendar. At the top of the page, Calendar No. 417. Substitute for House Bill No. 8492. An Act concerning Payment of Fines Collected for Traffic Violations on the Grounds of the University of Connecticut. File No. 818.

THE SPEAKER:

The gentleman from the 118th.

MR. AJELLO: (118th)

Mr. Speaker, may Calendar 417, Substitute for House Bill No. 8492 be passed retaining its place on the Calendar.

THE SPEAKER:

Without objection, it is so ordered.

THE CLERK:

Calendar No. 437, Substitute for House Bill No. 5480.
An Act concerning the Statute of Limitations for Injury to Person or Property. File 436.

THE SPEAKER:

The gentleman from the 130th.

MR. MERLY: (130th:

I move acceptance of the Joint Committee's favorable report and passage of the bill.

mec

Wednesday, May 7, 1969

13

THE SPEAKER:

The question is on acceptance and passage. Will you remark?

M. R. MERLY: (130th)

Mr. Speaker, in personal injury cases and malpractice cases the law in Connecticut now says that you have one year in which to institute suit. This means that if you don't institute suit within one year, the injured party will be barred from the courts of Connecticut forever. They will never have their day in court, and justice will never be done. The bill before us extends the statute of limitations in these cases to two years. It is a simple bill, but it is an important and significant one.

Why do we want to extend the statute to two years? There are several reasons - -

THE SPEAKER:

Please give your attention to the gentleman from the 130th.

MR. MERLY: (130th)

--- first of all, a two-year statute will give to the injured people more time to negotiate a settlement of their cases. This will result in saving costs of instituting suit to the injured party. The bill will also result in more settlements and help reduce the number of cases filed in court, and thereby lessen court congestion. One consequence of reducing court congestion is that it provides for speedier trials for injured parties, and to save the public money in jury and administrative costs. The bill should also help to have a favorable effect on

mec

Wednesday, May 7, 1969

14

mec

automobile insurance rates, which is presently a topic of discussion in this Assembly. This should result because there will be less cases in court and reduce legal fees to the insurance companies. These savings should be able to be passed on to the motoring public.

Another reason for a two-year statute is that in substantial personal injury cases, and even in less serious ones, a person's medical condition often does not stabilize for one year or more. The medical reports and bills are not available. It is impossible to evaluate the permanency, or disability of the injured party. The settlement negotiations could not have been carried on, and therefore a case will have to be filed in court and add to the court congestion. This bill will not result in delay in lawsuits because a suit can be instituted at any time. This bill concerns only the time after which suit can not be brought.

It is significant that most all of the states in the United States have a two, three or six-year statute of limitations in these cases. There are only two or three other states with a one-year statute. It is also significant that the neighboring states to Connecticut, namely, Massachusetts has a two-year statute; Rhode Island has a two-year statute; and New York has a three-year statute. The difference in the statute of limitations in neighboring states works many injustices to injured people. For example, if a New York resident came into Connecticut, and was injured in an accident, when he went home

Wednesday, May 7, 1969

15

mec

he would be aware of the New York statute of limitation being two years, and he may let the one-year statute in Connecticut run, thinking that he still has two years because in New York they have a two-year statute. These injustices are unjustified. It is clear that Connecticut is regressive in this regard. Let's give to the people of the state of Connecticut the same rights that the people in almost all of the other states in the United States have, and have had for many years.

This bill is good for the people of the state of Connecticut. It is in the best public interest. It is good for the man on the street who doesn't know the law, who walks into a lawyer's office one year after the year statute ran out, and has to be told that he is barred from the Connecticut courts forever because he is too late. I think we should bring Connecticut in line with the other states, particularly the adjoining states. It is a good bill, and I urge its passage.

THE SPEAKER:

Will you remark further? The gentleman from the 1st.

MR. KENNELLY: (1st)

Mr. Speaker, I rise in opposition to this bill. In my judgement, the probably effect of the two-year statute of limitations will add one full year onto the present court backlog. With all the efforts we in the state of Connecticut have made in the last two sessions of the Connecticut Assembly by adding new judges and the omnibus court reorganization bill. All the efforts of the trial barred, the aim of the bill will be nullified, and

Wednesday, May 7, 1969

16

mec

I think the bill is against the public interest.

THE SPEAKER:

Will you remark further? The gentleman from the 40th.

MR. MAYER: (40th)

Mr. Speaker, I rise also to oppose this bill, for a different reason, and I think everyone who is interested in the people of the state of Connecticut who are involved in automobile accidents, or are subjected to suit, should be interested in this bill also. It has been my experience in three particular occasions of having assured of mine suddenly call me one year from an accident for which they were not at fault and at which time they had collected from the other insurance company at the time of the accident, to inform me that they had received notice they were being sued, exactly one day prior to the expiration of the statute of limitations. Now what we are being asked to do is to extend this time to one day prior to two years following an accident, in which the innocent party in such a case could be issued a summons. By this particular time everybody has forgotten the facts in the case. No one can remember who the witnesses are, and it is a general mess. I do believe that people should be allowed to expect that in a reasonable time after an accident, if someone wants to sue, that they will do so. The proponent of this bill says, "Suppose that someone comes in a year or a day after the year has expired, and he is told by his attorney that he can't sue! Well, where has he been for the past year? He was in an accident, and presumably

Wednesday, May 7, 1969

17

mec

has recovered enough to walk into an attorney's office. I am sure he could have used the phone to get in touch with an attorney before the year was up. I do believe that this would have a serious effect on already burdened insurance problem in the state, and the rates of insurance in the state. I believe this is a bad bill in the interests of the people of the state of Connecticut, and a bad bill all around.

THE SPEAKER:

The gentleman from the 118th.

MR. AJELLO: (118th)

Mr. Speaker, I rise to disagree with the distinguished Deputy Majority Leader and the last speaker. I think this bill is very good for the people of the state of Connecticut, and I will give a couple of reasons, briefly, why.

It was pointed out by the gentleman who reported the bill out so ably, there are many instances, and I have two of them on my desk at the present moment in my own office, where people who are severely injured in the course of, usually an automobile crash, but in any other situation in which they might bring suit would serve as well as an illustration, where their medical condition can neither stabilize or be determined at the end of one year. This happens must more frequently than you might suppose, particularly in the areas of extended treatment of bone and joint injuries, hips, ankles and knees in particular tend to be a medical problem from beyond the arbitrary period of one year. This means that you must bring suit within that year, or

Wednesday, May 7, 1969

18

mec

be forever barred. I think the members of this House should know that the statute of limitations is an absolute bar to suit, for after the year has passed, there is no way in the world that you can bring a lawsuit regardless of the meritorious aspects of your claim. So I think that the long run effect of this will be to not increase the backlog, but to decrease the number of court actions which are filed. Certainly, the two cases to which I refer, which are in my own experience at this time, I think I can say safely that no lawsuit would ever be filed except for the fact that the statute of limitations makes it mandatory in each of those instances. They would otherwise be settled when the medical condition is determined finally because of the fact that the liability is clear in both situations. I think that is one aspect.

It eliminates a certain amount of uncertainty, as has been pointed out, and our sister states have gone as far as two and three years in this respect for much the same reason.

And there is one other compelling aspect which has not been mentioned which I think is significant, and again would point out for the benefit of the members who are not familiar with the actual operations in this field. It has long been my own contention that once a lawsuit is filed, it is referred by the insurance carrier to its own defense counsel. In most instances, my experience over the last ten years has been that the case cannot then be settled until it is reached in court. In other words, it is delayed until it comes up on the court

Wednesday, May 7, 1969

19
mec

docket for one reason or another, because these insurance company counsel are busy. They do not have time to sit down to talk about the files in the absence of some compelling reason such as an assignment for trial or a motion for a summary judgment. It is virtually impossible to settle a case with insurance company counsel until it is reached for trial in court. Therefore, I say that instead of contributing to the backlog, the fact that fewer actions might be filed because of this bill will act to detract from this backlog and make the court's overall business expeditious. I think this is a most important bill for the people of this state, for the claimants who might otherwise go uncompensated. I wish everyone would pay careful attention to it, and I urge its support.

THE SPEAKER:

The gentleman from the 7th.

MR. O'NEILL: (7th)

Mr. Speaker, I rise in opposition to the bill. I think it is evident as we look around the Hall and listen to the speeches that there are really almost two sides here, the defendants' side and the plaintiffs' side. I might say that the main portion of my work is plaintiffs' work except for criminal defense, and I still think in spite of that fact that this is a bad bill because as the Deputy Majority Leader said, it will just extend the time. We lawyers are probably the greatest procrastinators in the world anyway, and if we are not pushed a little bit for the one year, we will let it go for two.

Wednesday, May 7, 1969

20

mec

In fact, if you extended it to three, the writs would be filed at the end of two years, eleven months, and thirty days. I would like to see the bill defeated for that reason, and I think we will expedite everything, and I think our clients will get paid more promptly, the court dockets will be reduced, and overall it will be good for the state of Connecticut, if it remains as it is. Thank you.

THE SPEAKER:

The gentleman from the 141st.

MR. MCKINNEY: (141st)

Mr. Speaker, I rise in opposition to the gentleman from the 118th, which isn't unusual, but I find myself supporting the gentlemen from the 1st and the 7th which is very unusual.

I am not going to go into a long, critical diatribe as to what happens in legal offices, because I understand the problems of lawyers in the state of Connecticut. However, I think it is important to note that really what we are doing is deferring action from eleven months and twenty-nine days to twenty-three months and twenty-nine days. I understand and am fully aware of the pressure that every legal office is under, but I think to change the statute so that people are kept, if you want to call it that, hanging for another year, is to simply say that we are postponing justice. We are postponing a decision. I understand the argument, and the reasons why many members of the legal profession feel that this will speed up a decision. But, Mr. Speaker, what I am terribly afraid of is, that it is not

Wednesday, May 7, 1969

21

mec

going to speed up the legal office. And without being critical, without throwing stones at the legal profession, I really do think that the people have a right to be represented, to have their cases brought forward to file suit, and those who are going to be the defendants have the right to get the shadow of an action off the top of their heads within a year rather than two years. Mr. Speaker, I think it is a bill which does nothing but delay and add doubt to where human beings and the people in the state stand whenever they are involved in any action of this type.

THE SPEAKER:

The gentleman from the 174th.

MR. MISCIKOSKI: (174th)

Mr. Speaker, this is a good bill. I checked with the State Library many years ago and they told me that Connecticut was the only state in the United States that had a one-year statute of limitations. The insurance companies are getting away with murder. Many people on the streets don't know all the laws. They get into a problem, and before the insurance adjuster comes around two or three weeks before the statute runs out, and they don't realize - the people - how serious the statute of limitations is, and the first thing you know, the claim is not settled, and the insurance company is saving money. I think it is an excellent bill, and I commend the Judiciary Committee for bringing it out with a favorable report. Thank you.

Wednesday, May 7, 1969

23

mec

THE SPEAKER:

The gentleman from the 157th.

MR. BINGHAM: (157th)

Mr. Speaker, I speak in favor of the bill, and I think the two salient points we must remember here are (1) reduction in calendar congestion, and I would like to speak to this briefly. Very often we have in our offices cases which are of a very serious nature, which the adjuster for the insurance company, or the insurance company itself, would like to settle but for the fact that the statute of limitations is running, and we often hear the expression, "Well, you had better put the case in suit to protect the statute," and as the gentleman from the 118th said, "Once the case is in suit, it must go on the Calendar, and you do not settle it until the defense counsel is forced to trial, and at that time you begin to discuss settlement.

Secondly, we who live in towns bordering the state of New York, and possibly those attorneys who live in towns bordering the state of Massachusetts, have very often witnessed a situation whereby an attorney will call you up and say, "I would like to refer a case to you." It occurred in Connecticut, and you learn that the accident happened a year and a half, or a year and three months ago. Now most counsel in New York do not realize that Connecticut has a short statute of limitation, and very often the client is harmed by reason of the fact that settlement negotiations have been carried on, and I might say

Wednesday, May 7, 1969

24

mec

very often carried on with the knowledge of the insurance company. Very often adjusters, knowing that they have a one-year statute of limitations, will conduct settlement negotiations with New York counsel, and conduct them in such a manner that the statute will run, and then the client is informed that the statute has run on them.

I think in the interest of the Calendar congestion and the people of Connecticut, and the individual litigants, this bill should pass. It is a good bill, and should pass. Thank you.

THE SPEAKER:

The gentleman from the 92nd.

MR. MAHANEY: (92nd)

I find myself in a peculiar situation on this bill. I rise in opposition to it. However, I rise with mixed emotions because of the illustrious people on either side of the question. Perhaps the best definition I have ever heard of mixed emotions is the individual watching his favorite sports car being driven over a cliff by his mother-in-law. However, I do agree with Mr. Kennelly, and Representative Mayer on this subject, and it is my considered opinion that this would effectuate dilatory practice on the part of some attorneys, and I don't exclude myself from that criticism.

In addition to that, I think we must and should bear in mind the purpose of the statute of limitations, the basic purpose being to obviate or eliminate stale claims, and I don't

Wednesday, May 7, 1969

25

mec

stand here defending an insurance company, as one of the previous speakers claimed that this would be in favor of insurance companies. I stand here defending the home owner who would be subjected to a two-year old, or possibly could be subjected to a two-year old stale claim if this statute is passed. I don't think it is fair. I think one year is adequate time for a person to determine whether or not they should seek advice, or should in fact, bring a claim for personal injury. Therefore, I am whole-heartedly against this bill.

THE SPEAKER:

The gentleman from the 145th.

MR. BARD: (145th)

Mr. Speaker, I would like to speak in support of the bill. I think logic dictates that the more settlements that are brought about due to the fact that there is more time to bring these settlements about, the less suits have to be filed, and therefore the less court congestion you are going to have. For that reason, I firmly believe that if time, since 90% of cases are settled anyway, why clog up the courts with additional suits if we don't have to. This is a permissive thing. You can bring the suit any time you want. I think this is for the great benefit of the public if we allow more time for settlement and keep these out of court, keep our court congestion down, and keep our costs down, and therefore I would very heartily support the passage of this bill.

Wednesday, May 7, 1969

26

mec

THE SPEAKER:

The gentleman from the 81st.

MR. CARROZZELLA: (81st)

I would like, Mr. Speaker, to rise to speak in support of this bill, very briefly. I would like to consider the state of Connecticut as an enlightened state, and I would like to address my remarks to that because I feel in this area we are not enlightened. And by that I would illustrate, and say to you Mr. Speaker, that there are only five states out of fifty, that now have a one-year statute of limitations, and let me tell you the company that we keep - Kentucky, Tennessee, West Virginia, Connecticut. Mr. Speaker, I believe that in this area we are not enlightened. I don't like to be in the company with those other states such as those. I like to be in the company with states such as New York, Pennsylvania, California. This is where I think we belong. This is why I think it is a good bill. I urge its passage.

THE SPEAKER:

Will you remark further on the bill? The gentleman from the 165th.

MR. COLLINS: (165th)

Mr. Speaker, I would just briefly like to associate myself with those in support of the bill, the gentleman from the 118th and the 157th. To express my sentiments completely, I think we should accept the committee's favorable report and pass the bill.

Wednesday, May 7, 1969

27

mec

THE SPEAKER:

The gentleman from the 104th.

MR. OLIVER: (104th)

Mr. Speaker, very briefly, I just want to associate myself with the gentlemen from the 1st, the 7th, and 141st. I call that pleasant company this afternoon. I would suggest that we are not in good company if we are in the company of the state of New York where there are notorious logjams in the courts. I think it would be something less than a pleasure to practice in that state. I would suggest for the information of the non-lawyers in the House that with the case referred to by my distinguished colleague, Mr. Bingham, from Stamford, of the claimant who was negotiated with in effect by bad faith on the part of the insurance adjuster, that there is a recent case in the Law Journal, and I wish I had it with me today, within the last six or eight months, I think it was Judge Gurlow's opinion indicating that were the settlement negotiations conducted in such a way as to mislead the claimant, as to when the statute of limitations ran, that in that case an action would not be made a case for Special Defense for the statute of limitations, and that he could proceed anyway. I think that protects the legitimate claimant who is misled by the unscrupulous insurance adjuster. I thank you.

THE SPEAKER:

Representative McHugh.

Wednesday, May 7, 1969

28

mec

MR. McHUGH: (117th)

Mr. Speaker, I just want to rise in opposition, and point out from personal knowledge, having a practice which is concerned with the same type of cases, and being directly associated with cases in our neighboring states, I can say that the Connecticut courts are much less cluttered with their one-year statute than are the neighboring states of Massachusetts, Rhode Island, Connecticut, all with the same type of negligence cases. Solely because of the fact that it would have a beneficial effect on the docket of the court, I rise in opposition.

THE SPEAKER:

Will you remark further on the bill? The gentleman from the 177th.

MR. HOGAN: (177th)

Back two years ago, Mr. Speaker, I put in a bill to make the statute of limitations only six months, and when I saw this title, I decided the Committee had finally decided to bring it out. I think there is no reason for anyone to have more than one year to bring suit against another party. This just does not leave anyone with any ideas as to whether or not they have a suit hanging over them. I think one year is a great plenty, and as I previously said, I think six months was, but I think also it would be injurious to the health of the nation, because the ambulance cases would no longer have to jog. They could walk if they had two years to do it in.

Wednesday, May 7, 1969

29

mec

THE SPEAKER:

The gentleman from the 151st.

MR. MORANO: (151st)

Mr. Speaker, I rise in support of this bill, and I would like to take the time of this distinguished body for a moment to relate a personal experience. I was driving across the Tappansee Bridge in the state of New York in October 1967, and because of traffic conditions I had to stop my car. I looked in the mirror and saw a car approaching and he hit the rear end of my car and shook the beloved one up a bit. Not only did he hurt his beautiful Chrysler car, but he hurt the beloved one's back. Well, the point I am trying to make is that I then had to deal with insurance adjusters, and this insurance adjuster called me every week for a whole year, and finally the day before the statute of limitations expired, he said, "You better get this done, or you won't have any case." Little did he know that I had a New York attorney who told me they had three years in that state to see if I would have any ill effects from this accident, and should any ill effects occur after one year, I would have signed a paper with the insurance company which would have relieved them of any further liability, and I wasn't about to do it, and I think there are a lot of other people who face the same situation. It is for that purpose that I support this bill.

THE SPEAKER:

I didn't know that anyone shook up the beloved one or his

Wednesday, May 7, 1969

30

Chrysler. Are there any further remarks on the bill? The gentleman from the 123rd.

MR. STRADA: (156th)

Mr. Speaker, I rise to support this bill. I won't repeat the arguments that have been advanced very eloquently by Representative Merly and others, but I would like to say Mr. Speaker, that this bill will not postpone justice. I think it will have just the effect to the contrary. I think it is a very progressive piece of legislation that would bring us into conformity with other enlightened states. Mr. Speaker, I think we should forget about lawyers, and forget about insurance people. I think this bill is good for the people. Therefore, I am in favor of it.

THE SPEAKER:

Will you remark further on the bill? The gentleman from the 95th.

MR. SARASIN: (95th)

Thank you Mr. Speaker. Mr. Speaker, I too rise in support of this bill, and for all of the reasons that have already been stated. I think the most important reason, because we are talking about people here, is the reason brought out by the gentleman from the 118th when he reminds this House that the statute of limitations is an absolute bar. There is no other way. You can't get a special act passed through this body to control the statute, or extend the statute of limitations. It just ends at the end of one year. We are surrounded

Wednesday, May 7, 1969

31

mec

by enlightened states that have statutes of two and three years, and I think that this state should join in that. We are talking about people, we are talking about the stabilization of injuries. It is a good bill, Mr. Speaker, and should pass.

THE SPEAKER:

The gentleman from the 78th.

MR. PAPANDREA: (78th)

Mr. Speaker, it is difficult really to have anything to say here after this long debate. However, I do think that some of the areas have been touched upon only rather superficially. We have heard talk about people who are seriously injured, so that it is impossible to adequately assess the value of their case within the period of one year. If a case is that serious, I think we should admit that the experience of all of us who do this work, that there is no bar to the assessments during the time of the action pending in court. The staggering statistic in the state is 97% of all litigation is ultimately settled. In civil cases only 3% is actually litigated to its conclusion. One thing that I gought for, during the debate as a matter of fact, was not mentioned on this problem of a two-year statute as opposed to the present one-year statute, is a report which was prepared for this Assembly and given to us by the Chief Court Administrator, and I think it bears looking, and certainly before we vote on this, I think we should pay some attention to what has been done in the process of getting rid of the log-jam here in Connecticut. And I call your attention specifically

Wednesday, May 7, 1969

32

mec

to page 5 of that report which has a detailed statistical analysis of civil cases in this state.

For the first time since 1926 and 1927, the inventory of civil cases was reduced. The number of cases that were settled exceeded the number of new cases that were brought. This is a significant record of achievement and accomplishment, one that we in Connecticut should be well proud of. I frankly see no reason, and I speak as a member of a firm which probably does 90% of its business in plaintiffs' work, and the other 10% in an area other than negligence. We do not handle any defense work. I frankly have never once been faced with a situation where the poor innocent person that we supposedly are concerned with here today, suffered as a result of this statute. If the injury involves insurance, an adjuster assuredly will call. To the point Mr. Speaker, in Connecticut we have a statute which bars the use of any settlement obtained within fifteen days of the injury, and the reason we enacted that statute years ago here in Connecticut, was because of the diligence with which insurance companies work. It is to their advantage to buy up claims so to speak before they get a lawyer, before they go to court. I think quite honestly it would be inconsistent at this time to turn our back to the tremendous good that has been accomplished since we have obtained the services of a Chief Court Administrator. Many of us have been peeved at the measures which have been taken to assure that lawyers show up, that their clients are ready to go on with the case and with their witnesses.

Wednesday, May 7, 1969

33

mec

But the fact of the matter is indisputable, it has worked. It has made Connecticut a leader in the field of disposing of cases. We are certainly not in the league with Tennessee, Mississippi, or anyone else. We, in Connecticut, have the best judicial system in the entire United States, barring none, and I would hate at this point of time really for the State to make you, and I am referring here to the attorneys, because it would be primarily for the (word inaudible) of counsel to have two years within which to bring a suit. I do not see that the connection which should be necessarily made in order to pass this legislation today, a connection between the actual deprivation of the rights of people in this state and the need for a two-year statute. I submit that the case has not been made out. We have gone a long way, and I think we should continue that progress, Mr. Speaker.

THE SPEAKER:

Will anyone be the twentieth speaker on this bill? The gentleman from the 118th.

MR. AJELLO: (118th)

Mr. Speaker, I would think that the non-lawyer members of this House have heard rather more than they care to from the lawyers this afternoon, but I think it is our obligation when we have some information for them, to give it. My experience again has been, and I attended Law School in New York City, and I have had cases in the courts of Massachusetts, both of which have longer statutes than Connecticut does, and I submit

Wednesday, May 7, 1969

34

mec

the reason there is a bigger backlog in New York is that there are more people, and my experience has been that the backlog was substantially less in the state of Massachusetts, much less, for a comparable Superior Court and a comparable time than it is here in this state. I would like to refer back to my first statement which said that I have cases pending now in which this is true, - medical evaluation is not yet available. The only reason that lawsuits will be found in those cases is because the medical picture has not cleared up. The liability is clear. The companies would pay if we could tell them what the final outcome will be. I know from experience, and I am astounded that the practice is so different in some parts of the state, not all adjustors come promptly to the rescue of the injured party - quite the contrary. Many are left to their own devices in hopes that the statute will run. Also many lawsuits are filed by lawyers solely because of that year's statute running out. I have done it weekly and monthly just as other lawyers have because no agreement can be reached either for medical or other reasons. I think this is a good bill, not for lawyers, but for people.

THE SPEAKER:

The gentleman from the 130th.

MR. MERLY: (130th)

Mr. Speaker, I would like to make just one brief statement for non-lawyers. I would like to emphasize the fact that the one-year statute for negligence accidents in Connecticut is the only statute of limitations that is one-year. For ex-

Wednesday, May 7, 1969

35

mec

ample, the statute of limitation (words inaudible) the State of Connecticut of three years. The statute of limitations in contract actions is six or seven years. We are not confined to one year, so the argument about stale claims, how people forget, is invalid. Insurance companies are the first ones out to get statements and reserve testimony. I think this is a good bill for the people of the state. We are not concerned with ambulance chasers. We are not concerned with lawyers who procrastinate. That can be done at any time. It is an individual filing. Thank you.

THE SPEAKER:

Will you remark further on the bill? The gentleman from the 163rd.

MR. CAMP: (163rd)

I would not particularly like to associate myself with West Virginia and Kentucky, but I don't think the fact that some other state does something else really has an awful lot of bearing on Connecticut. The problem here, and the difference between this one, and what Mr. Merly is talking about in other areas is that today the usually defendant really isn't a very guilty party. The damage is slight, the man may have made some very slight error or something, but most people who come into courts as defendants are not what you would truly call guilty persons. For this reason, it seems to me that we could consider from their standpoint some time putting to rest their wonderment and their curiosity about whether or not they are

Wednesday, May 7, 1969

36

mec

going to get sued or not. Life is short, and a year is long enough to worry about whether or not you are going to be sued. As to the matter of any difficulties in bringing suit, and any of the lawyers can tell you, there is no great mystery about bringing a suit. It takes you and a secretary about an hour to draft a writ, and the sheriff about \$25.00 or \$35.00 to serve it. It doesn't create any great problems with the court, and I can't see any great difficulty in those few cases where you should bring suit in doing it. I think people deserve to get questions out of the way, and a year is long enough.

THE SPEAKER:

Will you remark further? The gentleman from the 92nd speaking for the second time.

MR. MAHANEY: (92)

Mr. Speaker, speaking for the second and last time, just to avoid any misconceptions with particular reference to the remarks just concluded by Representative Merly, I would like to put to him a question, in the nature of whether or not it is his understanding that this bill pertains to personal injuries which arise only from an automobile accident, because it is my understanding that such is not the case, and with that in mind, it is my thought that we are doing more dealing with a defendant who is guilty of negligence in the operation of a motor vehicle. We have rights here of property owners, and in many instances, and I am sure many of us are aware of this, a fall takes place on a person's property and he has absolutely no notice whatever

Wednesday, May 7, 1969

37

mec

that a fall has taken place, and that an injury has been received, and to extend the person's right, who may have been injured, who alleges he was injured in this fashion, to two years I think is unconscionable on the part of the defendant. With that statement in mind, what I would like to ask Representative Merly is if it is his understanding that this bill pertains exclusively to injuries rising out of automobile accidents.

THE SPEAKER:

Does the gentleman from the 130th care to respond?

MR. MERLY: (130th)

Yes, Mr. Speaker. Of course this statute is not limited to automobile accident cases. It is concerned with any negligence action, (word inaudible) and also malpractice actions. I did not limit my remarks to automobile accidents. That was brought up in the course of argument. The same arguments apply whether it is to a negligence act, or to an automobile accident. I move for a roll call vote.

THE SPEAKER:

The question is on a roll call. All those in favor, indicate by saying Aye. 20% having called for it, a roll call will be held. Will you remark further while the members are coming in to their chairs? The gentleman from the 162nd.

MR. RIMER: (162nd)

Mr. Speaker, I rise in support of this bill, in whose efforts the Minority Leader and others have spoken. I would

Wednesday, May 7, 1969

38

mec

like to clarify one of the points made in argument this afternoon, and I speak as an attorney who practiced in the state of New York for seven years before I had the sense to become admitted to the state of Connecticut, and I am delighted that I did so. The question has come up with respect to backlog of cases in the New York courts and in the Connecticut courts, and there is a serious problem in the New York courts, but there has been no hue and cry in the state of New York to reduce the statute of limitations from the present three-year statute to two or even one, such as we have here in the state of Connecticut. The basic problem before us is should a plaintiff be barred from a suit absolutely after one year has gone by? I see no justification for us in the state of Connecticut to continue this absolute bar. I think it is wrong, and I support this bill.

THE SPEAKER:

Will you remark further before we vote? Will the members please be seated? Will the members be seated? Will the aisles be cleared? The machine will be unlocked. Has every member voted? Has your vote been cast in the fashion in which you wish? If so, will the members please be seated? Will the beloved one please be seated before he is hit in the rear again? The machine will be locked. The Clerk will take a tally. The Clerk will announce the tally.

THE CLERK:

Total number voting 156. Necessary for passage 79.

Wednesday, May 7, 1969

39

mec

Those voting Yea, 89. Those voting Nay, 67. Absent and not voting 21.

THE SPEAKER:

The bill is passed. At this time I would like to invite the gentleman from the 30th to take the Chair.

(REPRESENTATIVE BADOLATO TOOK THE CHAIR)

THE CLERK:

Page 6 of the Calendar. Calendar 546, House Bill No. 8550. An Act concerning the Application of the Public Service Company Statutes to Small Water Suppliers. File 577.

THE SPEAKER:

The gentleman from the 118th.

MR. AJELLO: (118th)

I move that Calendar 546, House Bill 8550, File No. 577, be recommitted to the Committee on Public Utilities.

THE SPEAKER:

The question is on recommitment. Will you remark?
Hearing no objections, the bill will be recommitted.

THE CLERK:

Calendar 595. Modified House Bill No. 5997. An Act concerning the Definition of Optometry. File 616.

THE SPEAKER:

The gentleman from the 118th.

MR. AJELLO: (118th)

Mr. Speaker, may Calendar 595, Modified House Bill No.