

<b><i>Act Number</i></b>	<b><i>Session</i></b>	<b><i>Bill Number</i></b>	<b><i>Total Number of Committee Pages</i></b>	<b><i>Total Number of House Pages</i></b>	<b><i>Total Number of Senate Pages</i></b>
PA 71-40		859	0	13	5
			<u>Committee Pages:</u>	<u>House Pages:</u> <ul style="list-style-type: none"> <li>• 1032-1044</li> </ul>	<u>Senate Pages:</u> <ul style="list-style-type: none"> <li>• 450-451</li> <li>• 670-672</li> </ul>

**H-110**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 3  
974-1450**

Thursday, March 25, 1971 28.

closing on Sunday. A lot of people feel they can save on the labor costs. But that...how about the fellow who is willing to take a chance. He's willing to try to make a couple of dollars and meet expenses. I feel this is a good Bill. I feel this Bill should be passed. Thank you. EFH

MR. SPEAKER:

Are you prepared to vote? Will the Members please take their seats. Will all non-Members please leave seats of Members and clear the aisles. The machine will be opened. Have all the Members voted, and does the board properly reflect the way you voted? The machine will be closed. Will the Clerk please take a tally. When the Clerk is prepared, will the Clerk please announce the tally.

THE CLERK:

Total number voting - 141. Necessary for passage - 71.  
Yea - 97. Nay - 44. Absent and not voting - 36.

MR. SPEAKER:

For what purpose does the gentleman from the 52nd arise?

WILLIAM A. O'NEILL:

To say one word, sir. Shucks!

MR. SPEAKER:

Bill passed. Will the Clerk please return to the Calendar, to the regular order of business...Page 2, Calendar No. 104.

THE CLERK:

Calendar 104, substitute for S.B. No. 859, an Act concerning six man jury trials in all civil cases. In your File,

Thursday, March 25, 1971 29.

No. 18.

EFH

JOHN A. CARROZZELLA:

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the Bill.

MR. SPEAKER:

Question is on acceptance of the Joint Committee's favorable report and passage of the Bill. Will you remark?

JOHN A. CARROZZELLA:

Mr. Speaker, the Clerk has an amendment.

MR. SPEAKER:

Will the Clerk please read the amendment.

THE CLERK:

The Clerk: House Amendment Schedule "A", offered by Mr. Carrozzella, of the 81st. Strike out Section 13 and add a new Section 13 as follows: This Act shall take effect from its passage and shall apply to all civil actions claimed for jury trial on and after said effective date.

MR. SPEAKER:

Question is on House Amendment Schedule "A". Will you remark?

JOHN A. CARROZZELLA:

Mr. Speaker, I urge adoption of House Amendment Schedule "A". Mr. Speaker, this Amendment has to do with the effective date of this Bill. The Bill we're talking about is making a trial to a jury of six mandatory rather than allowing a trial to a jury of 12. As presently written the effective date gives rise to many,

Thursday, March 25, 1971 30.

many problems, one of which is a substantial appropriation might have to be made. Rather than go through that situation, we're offering this Amendment, which will make the Act effective on passage and will apply only to those civil actions that are claimed after the effective date of the Act. It's a good Amendment to a good Bill, and I think this is the only way we could really logically handle the effective date situation. I hope the Amendment passes.

EFH

MR. SPEAKER:

Will you remark further?

ROBERT OLIVER:

Mr. Speaker, I rise to support the Amendment. The Bill, as I will indicate later, has some Constitutional problems, but if this Amendment is not passed, it is subject to even greater challenge, so I support this.

MR. SPEAKER:

Will you remark further? If not, the question is on adoption of House Amendment Schedule "A". All those in favor will indicate by saying "aye". Opposed. The Amendment passes.

JOHN A. CARROZZELLA:

Now, Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the Bill as amended by House Amendment Schedule "A".

MR. SPEAKER:

Before putting the question, the Chair would rule House Amendment Schedule "A" is technical. The question is now on acceptance and passage of the Joint Committee's favorable report as

Thursday, March 25, 1971 31.

amended by House Amendment Schedule "A".

EFH

JOHN A. CARROZZELLA:

Mr. Speaker, the Judiciary Committee of this Session is charged with one of its responsibilities being to try to promote judicial reform...to try and make our system efficient, more effective, so that the people of the State of Connecticut will have a modern judicial system. This is one of the series of Bills that is aimed in that direction. What the Bill does is say that all civil cases after the effective date could only be tried to a jury of six. Right now there is an election for a jury of six or a jury of 12. What we are attempting to do by this Bill is to make jury trials speedier, in that it will take less time to select a jury. We are trying to make the jury system less cumbersome, in that it will not mean that we will have to have such large panels, since we will need approximately half the number of jurors. It, also, attacks the problem of our present facility insofar as the housing of jurors are concerned. Many of these facilities are too restrictive, making for the jurors to be uncomfortable because of the size of the panels. By the passage of this Bill, obviously we will reduce the panels, and therefore make the jurors more comfortable. One of the other problems we're trying to attack is the fact that we have a difficulty in actually getting jurors toward the end of the year. This was brought to our attention this very morning. They choose so many people, and by the end of the year they even have difficulty getting bodies. This will help solve that problem. And, finally, one of the major things that we're concerned

Thursday, March 25, 1971 32.

with is the expense right now. Right now our jury system costs us...this State...approximately two million dollars a year. It is hoped that with this Bill and with another Bill that we are also considering, that we will be able to effectuate a savings of anywhere between two and three hundred thousand dollars a year, which money we will use to promote a better and more efficient court insofar as payment of salaries, and so forth. So what we-re trying to do here is make the jury system more effective and more efficient. I might call to the attention of the Members of the House that this month the Judicial Conference of the United States Courts voted to reduce the size of juries in all Federal civil cases. I specifically refer to an article which appeared in THE NEW YORK TIMES on March 17th. I might also point out that this is in line with a recent Florida case which was decided by the United States Supreme Court which they said there is no magic in the number of 12. Now, I recognize in this Bill that there are certain Constitutional questions raised. However, I feel that there is enough sentiment at this time...there is enough law at this time ...to overcome those problems. I think it's a good Bill. I think it will help our system. And, to a man, I might say that the Judges that we interviewed have all said that this is the way to help them promote more efficient justice. They say it's a good Bill, but without commenting on whether or not it's Constitutional. They all think it's a good idea. I think it's a good idea. The Committee thought it was a good idea. We hope it passes.

MR. SPEAKER:

EFH

Thursday, March 25, 1971

33.

Will you remark further?

EFH

PETER W. GILLIES:

Mr. Speaker, I rise in support of this Bill. The only thing I would add is that I would hope that some of the money that we anticipate saving as a result of this can be used in some way to make the facilities available for the juries that do sit at least somewhat habitable. The conditions the jurors are asked to serve under are almost, on the face of it, criminal. They sit in tiny rooms with no form of any kind of entertainment, and it is really an outrage that we insist the juries serve in this kind of capacity. So I would hope that some of the money saved could not only be used for paying administrative salaries, but also make the conditions better for the jurors who are asked to sit.

MR. SPEAKER:

Will you remark further?

ROBERT G. OLIVER:

Mr. Speaker, I agree with all that the distinguished Chairman of the Judiciary Committee has said concerning the laudable purposes of this Bill. I, however, entertain great Constitutional doubts under the Constitution of the State of Connecticut, and for that reason, with the indulgence of the House, I would like to indicate why I have doubts. I think it is absolutely clear, in the criminal situation, that the Fourteenth Amendment to the United States Constitution applies the Sixth Amendment, referring to right of trial by jury in criminal cases to the States, and the United States Supreme Court, last year, in Williams against

Thursday, March 25, 1971 34.

Florida, held that Constitutional guarantees of trial by jury do not necessarily require that a jury membership be fixed at exactly 12 persons rather than some lesser number of six, and Mr. Justice White went on to suggest that it was at least...at least as regarded the framers of the United States Constitution...at least as regarded what was in the minds, or not in the minds, of the delegates to the Constitutional Convention of the United States and the first Congress of the United States, which passed the Bill of Rights, that there was no indication whatsoever, as he saw it, that the framers had in their minds an explicit decision to equate Constitutional and common law characteristics of the jury at that time, because it was absolutely clear, it seemed, that at that time, under the common law of the various states, that a jury meant a jury of 12. So, therefore, if he concluded that the Supreme Court...I beg your pardon...that the Constitution of the United States, the Fourteenth Amendment applying the Sixth to the States, does not qualify in criminal cases, the number 12 is Constitutional. He also concluded, however, that in no way did this restrain or mandate that the States follow lead. I would also suggest, in passing, that the Williams case went off under a particular Federal...beg your pardon...Florida Constitutional provision. It bears no relationship to ours. It's also quite clear to me that the Seventh Amendment of the United States Constitution refers only to Federal civil actions...that's a right to trial of a jury of common law where the amount was over \$25.00. We come, then, to the Connecticut Constitution, and here I think we have a

EFH

Thursday, March 25, 1971 35.

unique constitution. I wouldn't purport to say that I know what all of them say, but certainly it's unique as regards it distinguishing it from the Federal Constitution. Under Section 8 of the Declaration of Rights, and Section 19 of the Declaration of Rights of the 1965 Constitutional...Constitution of the State of Connecticut, it reads in the first instance, "in all criminal prosecutions, the accused shall have the right to a speedy public trial by an impartial jury". In Section 19, the key words, "the right of trial by jury shall remain inviolate". This particular phrase is carried over from Section 21, of the 1818 Constitution. Now, if the Federal Constitution and Courts...I wouldn't undertake to suggest to the Members of this House how a Court actually would decide a case under this...but it seems to me the Courts generally look at what was in the mind of the framers of the Constitution. Again, the Federal Constitution does not come into this area. What was in the mind of the framers of the Constitution of Connecticut in 1818? I think you'll understand that we have to back into our unique history in Connecticut. Connecticut was basically settled around 1634 to 1636 to 1638. The three rivers colonies and the New Haven Colony. The Three Rivers Colonies adopted the fundamental orders. At this time, jury trials were still in the process of development in England. Historically, the jury had actually not been an impartial tryer of the fact but had grown up in the 12th and 13th centuries on the basis of assembling a group of persons from the neighborhood who were actually familiar with the facts of the case, and on that basis they were on the jury to

EFH

Thursday, March 25, 1971

36.

EFH

reach mixed questions of law in fact, even in those days. Now, of course, it's absolutely clear that a jury must be an impartial jury and persons having familiarity with the parties or the matters in contest are excluded. So there has been an historical development. I don't want to suggest that there hasn't been. At that time also, in England, in addition to the rudimentary jury system, we had the star chambers, where civil and criminal matters both were tried, often on affidavits, without live testimony and evidence, and they became quite abused. The New Haven Colony, incidentally...given the point of view I'm taking today...perhaps is ironic...followed the analogy of the civil law under Biblical foundations and allowed no jury trial whatsoever. Prior to 1662, there was no regular judicial branch in the State of Connecticut, and the General Court wrapped up the Executive, Judicial and Legislative functions all into one. However, gradually...I think it's very important for understanding what we're doing today as I see the law...juries began to be used prior to 1662 in civil actions, but in civil actions only. As a matter of fact, criminal actions were still tried to the General Court, and clearly most all...it was all felonies and most misdemeanors...again tried by this General Court without a jury. In 1644, trial of all cases under 40 shillings...this would be civil cases...were left to magistrates, and gradually these magistrate courts grew up and authorized juries of six, or of 12, and often agreement of less than a majority. However, in 1662, the current foundation really began. King Charles, II guaranteed the Charter of the Colony of Connecticut and guaranteed to each citizen

Thursday, March 25, 1971 37.

of Connecticut "all liberties and immunities of free and natural subjects within any of the King's dominions"...that is, the rights of citizens of the common law in England, and in 1662, also, the star chambers...infamous star chambers...were abolished. Thereafter, by statute, the Connecticut colonists, in their own way, began to directly assimilate, it seems to me, the right of jury trial here to the right of jury trial in England. For example, in the revision of 1672 the right to jury trial was recognized in all criminal cases, unless the defendant actually elected a trial by the Court...and to define juries as follows exhorting, "in all cases where the debt of damages shall exceed 40 shillings, they shall be tried by a jury of 12 men, which men shall be a panel who have sworn truly to try, etc., etc., etc." Unanimity was required, and in 1702 the right of jury trial was clearly confirmed, extending even to cases less than 40 shillings where the claimant agreed to pay the cost of the jury. And it was absolutely clear that between 1702 and 1818 there was no statutory change whatsoever relative to the numbers of juries. Therefore, I conclude and I quote from Mr. Justice Hammersly in a case of 75 Connecticut State against Gannon, in the 1902 case, which has a long dissertation on the law of juries in the State...in our State trial by jury finally became closely assimilated to the English system, and when, in 1818, our Constitution declared the right of trial by jury shall remain inviolate, it referred to a trial by a jury...the same in its essential features as the jury trial at common law, and that, gentlemen, was a jury trial of twelve, So, I believe on grounds of

EFH

Thursday, March 25, 1971 38.

Constitutional law, I can't support this Bill, although I agree with the Chairman of the Judiciary Committee that it's perhaps worth a try in the civil area in that not too much will be lost if, in fact, the question does go up to our Supreme Court, and they uphold my position as opposed to his. But I do believe it's unconstitutional.

JOHN F. PAPANDREA:

Mr. Speaker, I must admit I am somewhat overwhelmed. I don't remember such an indepth and extensive and comprehensive treatise during my three years of law school. But let me say this, the ancient history is all well and good. The Constitutional argument is for the Supreme Court of this State to rule on. Enough members of the Judiciary Committee have seen fit to bring this to the floor, so obviously the benefit of the doubt is with this bill on constitutionality. I think the need is very clear. The people of this State are somewhat restive and apprehensive about the delays in the disposition of civil matters, and it certainly is incumbent upon us to leave a question of constitutionality where it properly belongs...with the third branch of government...the Supreme Court of this State, but to address ourselves directly and with dispatch to getting on to saving the taxpayers of this State the hard-earned tax dollars in times of austerity and difficulty, and also to do our part in a very simple, a very convenient and a very easy manner by making available six-man jury trial in all civil actions. I don't believe it's an imposition in this day and age, and it certainly goes a long way towards accomplishing our

EFH

Thursday, March 25, 1971 39.

objective of a speedy trial as close as possible to the day of the incident that's complained of for all of the citizens of this State EFH

MR. SPEAKER:

Will you remark further? If not, the question is on acceptance...

THOMAS H. DOOLEY:

Mr. Speaker, I would just like to echo the sentiments of Rep. Papandrea. I think this is one of the most significant pieces of legislation that we're going to be called upon to consider this year. I think there's no one item that undermines the faith of our citizens in our justice system in Connecticut as much as the delays, and I believe that this Bill is in the best interest of not only those who will be called upon to serve on the juries of the State, but particularly the litigants.

MR. SPEAKER:

Will you remark further?

JAMES F. BINGHAM:

Mr. Speaker, I rise to support this Bill. I agree with the Chairman of the Judiciary Committee in the sense that if we vote for this Bill we are really preserving the jury system, and that's what we tried to do in the Judiciary Committee, and that's what we try to do in the hall of this House. We all know what the framers of the Constitution of the United States meant. We know that they meant that we were to preserve the jury trial for the people of the United States, and I think that we can also know that what the framers of the Constitution of 1818 meant when they stated that the right to jury trial shall remain inviolate. It is

Thursday, March 25, 1971 40.

not for me to construct those words "to remain inviolate". It is for the Supreme Court of the State of Connecticut to construct it. And I think that every person here can take solace in the fact that they are voting for an Act which will preserve the jury system in the State of Connecticut, and certainly we can say that the jury system in the State of Connecticut is the light of liberty, and, therefore, I will support this Bill. EPI

MR. SPEAKER:

Will you remark further? If not, the question is on acceptance of the Joint Committee's favorable report and passage of the Bill as amended by House Amendment Schedule "A". All those in favor will indicate by saying "aye". All those opposed. The Bill is passed.

JOHN A. CARROZZELLA:

Mr. Speaker, I would now move for suspension of the rules for immediate transmittal to the Senate.

MR. SPEAKER:

Question's on suspension for immediate transmittal to the Senate. Is there objection? Hearing none, the rules are suspended, and the matter is transmitted herewith.

THE CLERK:

Calendar 137, H.B. No. 7661, an Act concerning extending the Minimum Wage Law to public employees and educational and charitable, and like employees.

DOMINIC J. BADOLATO:

Mr. Speaker, I move for the acceptance of the Committee's

S-76  
CONNECTICUT  
GENERAL ASSEMBLY

SENATE

PROCEEDINGS  
1971

VOL.14  
PART 1  
1-473

March 9, 1971

Page 16

JUDICIARY: HOUSE BILL NO. 7249. And Act Concerning Admissibility as Evidence of Business Entries and Photographic Copies.

The Clerk has proceeded as far as the Calendar. Business on the Calendar:

CALENDAR NO. 29. File No. 18. Favorable report of the Joint Standing Committee on Judiciary. Substitute Senate Bill No. 859. An Act Concerning Six Man Jury Trials in All Civil Cases.

SENATOR JACKSON:

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

THE CHAIR:

Question is accepting the Joint Committee's favorable report and passage of the bill. Will you remark?

SENATOR JACKSON:

Mr. President, this bill abolishes the 12 man jury in all civil actions and substitutes trial by six-man jury for all civil actions permitted neither are common law, legal traditions or specified legal civil statutes. The act will take effect on July 1 of this year and shall apply to all cases in our State Courts in which a trial has not actually begun as of that date.

The legislation also, provides for a refund to any party who has paid existing fee for a jury of twelve and will not have had a trial before July 1, of this year.

By reducing the number of jurors in civil actions from twelve to six. This legislation will mean that less court time will be required in picking the juries and thus, more civil cases will be disposed of. Additionally since fewer number of our citizens will have to be called to serve on jury-

March 9, 1971

Page 17

panels, it is estimated that this legislation will also save the State of Connecticut substantial sum. Finally, it would mean that the resulting smaller jury-panels will be more comfortably housed in court facilities, which are now in many cases, are excessively over-crowded.

I think this is just one of several bills that the Judiciary Committee will be reporting out, which we feel will aid our present congested system in both the civil and also the criminal court systems of our State of Connecticut. I urge passage of the bill.

THE CHAIR:

Question is on passage of the bill. Will you remark further? If not, all those in favor of passage of the bill signify their intentions by saying, "Aye". Opposed, "nay". The ayes have it; the bill is passed.

THE CLERK:

CALENDAR NO. 30. File No. 6. Favorable report of the Joint Standing Committee on Judiciary. Substitute House Bill no. 6022. An Act Concerning Appointment of Special Policemen for the Division of Central Collections.

SENATOR JACKSON:

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

THE CHAIR:

Question is on passage of the bill. Will you remark?

SENATOR JACKSON:

Mr. President, this bill authorizes the Police Commissioner to appoint persons who have been nominated by the Commissioner of Finance and Control with special policemen in the central collection division of the Agency.

They will have all powers of State Policemen and be on call of the Commissioner

**S-77**

**CONNECTICUT  
GENERAL ASSEMBLY**

**SENATE**

**PROCEEDINGS**

**1971**

**VOL. 14**

**PART 2**

**474-956**

March 25, 1971

Page 27

SENATOR CALDWELL:

That was to be passed, retaining its place.

THE CLERK:

No further business on the clerk's desk, at this time.

SENATOR HAMMER:

A point of personal privilege for the purpose of an introduction. We have us today, sitting in back of me, some very distinguished ladies from the business and professional womens clubs of Connecticut. I am very glad to announce that I am a charter member of this club from my own town. I take pleasure in welcoming them here. Mrs. Creamer of Groton, State President, This is the 50th Anniversary of the founding of the club. Mrs. Creed of Brookfield, who is a past state president; Mrs. Kiernan, State Editor of the paper from Sandy Hook. I know that the Senate will show them their usual welcome.

THE CHAIR:

Ladies we are glad to welcome you. You are all equally welcome but particularly Senator Kiernan's wife. Who lives in Newtown in my District.

THE CLERK:

Clerk has received from the House, under disagree action, favorable report of the joint standing committee on Judiciary. Substitute for Senate Bill No. 859. An Act Concerning 6 man jury trials in all civil cases, as amended by House Amendment Schedule A.

SENATOR JACKSON:

Mr. President, I would move suspension of the rules for immediate consideration of the bill, as amended by House Amendment Schedule A.

March 25, 1971

Page 28

THE CHAIR:

Senator Jackson, will you indulge the Chair, just a moment, while I explain to the new members while I explain what a disagreeing action is. This is the first time we have had a disagreeing action. The House did not pass the bill as the Senate sent it down. They amended it, the way they wanted it. They've sent it up, now. As a disagreeing Action, it is new here before us. And we can accept thier amendment or amend it otherwise or just treat it as a new piece of business. And you're asking that we suspend the rules so that, it doesn't have to lie on the Calendar. If there is no objection, the rules are suspended for immediate consideration of the bill under disagreeing action.

SENATOR JACKSON:

Would the clerk please read the amendment?

THE CLERK:

House Amendment Schedule A, strike out section 13 and add a new section 13 as follows:

This act shall take effect from its passage and shall apply to all civil actions claimed for jury trial on or after said effective date.

SENATOR JACKSON:

Mr. President, I would move adoption of the bill, as amended by House Amendment Schedule A.

THE CHAIR:

Will you remark?

SENATOR JACKSON:

Mr. President, House Amendment Schedule A, makes the bill effective on passage and it makes it very clear that the jury trials that are effected,

March 25, 1971

Page 29

are those that are claimed after the bill becomes effective.

THE CHAIR:

Question is on passage of the bill, as amended by House Amendment Schedule A. Will you remark further? If not, all those in favor signify by saying, "aye". Opposed, "nay". The ayes have it. The bill is passed.

THE CLERK:

No further business on the clerk's desk.

SENATOR RIMER:

Mr. President, I rise on a point of personal privilege. I'm happy to announce that we have with us today, my niece, Janet Rimer. A recent graduate of the University of Connecticut. Will you accord her, the usual welcome?

SENATOR CALDWELL:

Mr. President, I move that we stand adjourned until Tuesday, at 2 O'clock. And I would like to indicate to the members of the circle, that we plan on meeting on, Tuesday, Wednesday and Thursday all at 2 O'Clock. If there is any change, I will let you know.

THE CHAIR:

If there is no objection, the Senate will stand adjourned until next Tuesday at 2 O'Clock.

THE SENATE AT 4:43 P.M., ADJOURNED TO MEET ON TUESDAY, MARCH 30  
AT 2 P.M.