

HB 6206

PA 585

1971

Judiciary 630-631, 676

House 4748

Senate 3090

**JOINT
STANDING
COMMITTEE
HEARINGS**

JUDICIARY

**PART 2
393-688**

1971

Rep. Mortensen: Mr. Chairman, Members of the Committee, I am Elmer Mortensen representing the 24th District here to register in favor of H.B. #6574. An Act creating a Probate Court in Wethersfield, Rocky Hill and Newington.

H.B. #6574 - AN ACT CREATING THE PROBATE DISTRICT OF WETHERSFIELD.

Mr. Chairman, Members of the Committee, not being an attorney only an average layman, but I have heard much of the need of a Probate Court. We now have a population of somewheres around 80,000 to 85,000 people which is in the Hartford Probate. We feel as though, with the population we have, the tremendous business in the Hartford Probate, that we should be entitled to a Probate Court for the three towns.

I have here an able attorney, Mr. Scoler who will speak further on it. Being an attorney and having had the business with the Probate Courts. I do hope that you will give this careful and good consideration that we may end up this time - we have tried for several Sessions to get a Probate Court to the three towns. Thank you very much.

Sen. Jackson: Are there any other members of the General Assembly?

Rep. Cretella: Members of the Committee, the Bill number is #6206. Representative Cretella 99th District.

H.B. #6206 - AN ACT CONCERNING LIABILITY OF REPRESENTATIVES OF ESTATES AND TRANSFEREES.

Gentlemen, the Bill in question relates to the liability of an executor under a will. I know that many of us have drawn wills for clients and in the normal course of drawing a will, have asked the client who you want to be your administrator of your estate. We have received a response and say well what does the administrator do and the usual answer is well the administrator will take care of the Probate papers, he has no particular interest in the estate and no particular exposure, as long as he does his job well.

Section 12-384 of the General Statutes, believe it or not, places a liability on an executor or an administrator that far exceeds anything that any of us - I think, have ever given any thought too. It states that an administrator can be personally liable for unpaid Connecticut succession taxes to the extent of the property which he receives. Not that he is incompetent, not if he leaves the money which he receives in his desk drawer and it is stolen that night, not if he sits on a pile of stock and lets it decline day after day without doing anything to preserve the assets, not if he takes possession of a house and does not insure it and the house burns down - it says he is liable to the extent of the property which he receives. - period.

Now we have all felt, I believe as attorneys, that in placing someone in the position of an administrator, that if they do their job, they will not be held liable. Now you might ask, where and how could such a situation arise that a man could be held liable. An administrator could be held

liable without having been derelict, negligent or corrupt in his duties. And there are many situations. You can have the situation where - and I will go to the extremes at first. You can have the situation where the administrator comes into cash and on the way to the bank, he could be robbed. The Statute would apply because Connecticut deals with date of death values - period.

A more common factor would be in a very common situation closely held stock. Closely held stock in a corporation, date of death value - the tax department comes in and values it and that stock is not readily - can be liquidated. Sits there and holds on to that stock over a period of time and the stock then has no value, the executor can be liable for the value on the date of death and he did nothing wrong. He did nothing corrupt. He did nothing negligent.

Another example might be where an administrator comes into traded stock. Traded on the market - over night the president of some traded company might decide to pack his bags and go to Argentina, the next day trading is stopped on that stock - trading has stopped for two or three days. The stock was 51 on the day of death that opens up at 2. That administrator is liable for the value of the material that he received.

This Statute which I propose, is an amendment and proposes to place the liability on the executor and administrator when he is wrong and not otherwise. I ask for a favorable report on this Bill. Thank you for your attention.

Sen. Jackson: Thank you very much.

Rep. Berberick: My name is Representative Frederick Berberick from the 62nd District. I am here to speak in favor of Bill #5542.

H.B. #5542 - AN ACT CONCERNING THE ALLOWANCE FOR SUPPORT OF SURVIVING SPOUSE AND FAMILY FROM A DECEDENT'S ESTATE.

What this Bill essentially does is change it from a discretionary Bill to a mandatory Bill relative to widow's allowance. Yet the control still remains in the Probate Court in this matter. If you will note that the Probate Court can give such an amount as may be necessary in the opinion such Probate Court.

The reason for this Bill is to tie it in with the IRS and other states who have similar Bills to allow the estate to take a deduction for..... As it presently stands now, they can not. By having this particular Bill set in this manner, it will allow the estate to take the deductions for Widow's Allowance and I think in this time now that we have with the tax problem, it would be a very important point to bring up and very important for a widow to have this deduction. Thank you.

eliminate that part, I am sorry - in the interest of time. We state, in conclusion, that there will always be final limitations as to how much statute law can improve the care of persons who are ill. The patient does have to be protected by law. This is why the writ of habeas corpus exists, why the right to release privileged information belongs to the patient and not to the psychiatrist and why, in the final analysis, the physician must be prepared to be sued for any act of negligence with which he is charged. This is the way it is and this is the way it should be.

But when all is said and done, the dignity, rights and proper treatment for the ill depends critically on the personal consideration, dignity, humanity and basic ethical considerations of those whom the community charges with their care.

The Physician must never forget the legal rights of those whom he is treating. He has at the same time, side by side and within strict ethical bounds which can never be legislated, to remember their moral right to treatment. Within these additional bounds, he has to make decisions and give judgements which move the patient toward getting well.

For these reasons the Connecticut Psychiatric Society respectfully urges the Judiciary Committee to oppose S. B. #592.

Sen. Jackson: Thank you very much, Doctor. Mr. Tomkien to be followed by Seymour Alpert. Mr. Tomkien? Mr. Alpert? Mr. Alpert to be followed by Mary Parham.

Mr. Alpert: Mr. Chairman, Members of the Committee, I am Seymour Alpert, Chief Inheritance Tax Attorney for the State of Connecticut - speaking on behalf of the State Tax Commissioner. I would like to speak briefly on four Bills, the first one is S.B. #56.

S.B. #56 AN ACT CONCERNING DEDUCTION OF DEBTS OF THE TRANSFEROR IN DETERMINING APPLICATION OF THE ESTATE TRANSFER TAX.

The Tax Commissioner objects to this Bill on the grounds that it is unclear. There is no procedure set up for the operation of the provisions of this Bill and that it disturbs the sound case law on the subject and to the extent that deductions are enlarged in the field of non-probate property. The Bill is a revenue loser.

Rep. Smyth: A revenue loser?

Mr. Alpert: A loser, yes. The Commissioner is also opposed to Bill #6206.

H.B. #6206 - AN ACT CONCERNING LIABILITY OF REPRESENTATIVES OF ESTATES AND TRANSFEREES.

This Bill lacks clarity. It creates problems and it increases the burdens on the Tax Commissioner and there also is a possible loss of revenue involved.

With respect to H.B. #6570.

H.B. #6570 - AN ACT CONCERNING THE TAXATION OF THE ESTATES OF DECEASED PERSONS.

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
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Tuesday, June 1, 1971

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OF REGISTRAR OF VITAL STATISTICS, File 1340.

Cal. 1206, Sub. for H.B. 8013. AN ACT CONCERNING THE TRANSFER OF CRIMINAL CASES FROM THE SUPERIOR COURT TO THE CIRCUIT COURT. File 1339.

Cal. 1216, H.B. 5849. AN ACT CONCERNING DESIGNATION OF A SEWER AUTHORITY BY A MUNICIPALITY. File 1344.

Cal. 1227, Sub. for H.B. 6206. AN ACT CONCERNING LIABILITY OF REPRESENTATIVES OF ESTATES AND TRANSFEREES. F. 1347.

I move adoption of these items.

THE SPEAKER:

Question is on acceptance and passage. All those in favor indicate by saying AYE. Opposed. The BILLS ARE PASSED.

MR. SARASIN: (95th)

Pursuant to Rule 48, I move the adoption of the following resolutions on the Consent Calendar, which are as follows: and move for suspension of the rules.

THE SPEAKER:

Is there objection to the suspension of the rules. Hearing none, the rules are suspended. The gentleman from the 95th.

MR. SARASIN: (95th)

Cal. 1276, H.J. Resolution 224, COMMENDING MRS. MARY HUTCHINSON BUCKLEY SCHOOL KINDERGARTEN TEACHER IN MANCHESTER.

Cal. 1277, H.B. Resolution 225, CONGRATULATING MR. AND MRS. LOUIS S. JACOBSON.

Cal. 1278, H.J. Resolution 226, extending CONDOLENCES ON THE DEATH OF POLICE CHIEF HENRY I. MATHURIN OF PUTNAM.

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CONNECTICUT
GENERAL ASSEMBLY

SENATE

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2874-3413

June 7, 1971 19.

THE CHAIR:

There being no objection the Senate will stand in recess until approximately 3 p.m.

THE SENATE RECESSED AT
THE SENATE RECOVERED AT
PRESIDENT PRO TEM IN THE CHAIR:

THE CHAIR:

The Senate will come to Order. Senator Caldwell.

SENATOR CALDWELL:

Mr. President, I would like to take up matters on the consent Calendar. I would like to make a motion that the recommendations of the Joint Committees be accepted. And the following bills adopted.

On page 2, Cal. 960, File 1313, Substitute for S.B. 1810. An Act Permitting Towns to Charge Developers Inspection and Engineering Fees.

On page 4, Cal. 1185, H.B. 5054, File 1329 An Act Concerning the Creation of Tenant Landlord Mediation Boards.

On page 5, Cal. 1137 File 1354, Substitute for H.B. 5515 An Act Concerning Contracts for Highway Construction and Authority for Additional Construction.

Cal. 1141, File 1347 Substitute for H.B. 6206 An Act Concerning Liability of Representatives of Estates and Transfererees.

Page 6, Cal. 1147, File 1340, Substitute H.B. 7408 An Act Concerning the Duties of Registrars of Vital Statistics.

Cal. 1151 File, 1339 Substitute for H.B. 8013 An Act Concerning the Transfer of Criminal Cases from the Superior Court to the Circuit Court.

Page 7, Cal. 1155, File 1646, Substitute for S.B. 1629 An Act Concerning Limitation on Certain Contracts for Instruction or Use of Any Physical or Social Training School.

Page 9, Cal. 1189, File 1379 Substitute for H.B. 6504 An Act Concerning Guest Book Requirements Under Club Permits.