

Legislative History for Connecticut Act

H138143

PA 36

1973

Judiciary : p 296, 322, 326, 348, 650

Sp

Senate : p 1054-1065

Sp

House : p 1230-1236

Sp

**LAW/LEGISLATIVE REFERENCE
DO NOT REMOVE FROM LIBRARY**

24 pages

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

Connecticut State Library
Compiled 2012

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 1
1-359

1973
INDEX

JUDICIARY

WEDNESDAY

FEBRUARY 28, 1973

CHAIRMAN GUIDERA: Would you give us the number of that bill?

REPRESENTATIVE MCKENNA: It is ICO Number 5857 or the Proposed Bill No. is 7262.

CHAIRMAN GUIDERA: That bill is before State and Urban Development I believe. It is before this Committee. Are there any other senators or representatives who would like to speak at this time.

REPRESENTATIVE RUSSELL POST, 62nd District: Thank you Mr. Chairman. I would like to speak on two different issues; one you did have in the bulletin, the Code of Ethics is a proper subject matter before the Judiciary Committee this morning. I read an ambiguity in the current Code of Ethics and would like to bring it to your attention. It could be a critical issue. The legislative history in the past reported the Code of Ethics as prohibiting a lawyer legislator from appearing before various state agencies or from his partners appearing before state agencies, representing a client. But I don't believe Section 1-66, which is the controlling provision, says that. It seems to say that a lawyer-legislator himself is prohibited from appearing before various state agencies and either he or his partners in the law firm are prohibited from receiving a fee for the lawyer-legislator's appearance.

Now the press, two years ago, reported that your intent was, or the legislative intent was, to prohibit both the lawyer and his partners from appearing before various state agencies. But as I read that Statute, the ambiguity exists. I support the Code of Ethics totally but I would suggest that that particular provision be clarified. It could be rather critical at some point and I think legislators are entitled to know and other government employees what we really mean in the Code of Ethics.

The other topic that I would like to address myself to is there are several bills regarding the probate system, four in particular which I would like to support, will support, 8202, 8294, 8143 and 8246. They would seem to me to be ~~appropriate, although rather~~ small steps, toward improving the probate system in Connecticut. Several years ago, 1967 I believe, the Legislature realized that there was need for reviewing the probate system in Connecticut, and adopted a Commission to study the problem which Commission reported back, at least in part. The Commission, I don't believe, ever completed its study, as to the procedures of the Probate Court and how they could be simplified. I am sure there are many arguments why we need a very sophisticated complex system for administering estates, but I submit to you that we ought to take a look at it from the other point of view. I am personally convinced that we can establish a probate

JUDICIARY

WEDNESDAY

FEBRUARY 28, 1973

have no liens. They are eliminating the possibility of such a lien from a competitive standpoint.

Basically, I know that material supply people who historically, as I mentioned earlier, provide the necessary where-with-all so that this housing boom that we experienced in particular last year can continue, are already overburdened with paper work necessary to keep their business going.

The indication of our association with our contractors, with our sub-contractors, that an additional burden is forthcoming, is not looked upon with any favor whatsoever. We continually are faced with the problem of collections. Contractors historically are not the best people to do business with. We are continually looking for methods to protect ourselves as a supplier of substantial amounts of material. We try to endeavor to create contracts between the material supply house and the contractor on a basis of personal guarantee, of personal signature. This is not always possible to do. It is not always very meaningful. However, the protection that we have on an existing law which has operated for many, many, many years, satisfactorily so, is one that we would like to keep. Thank you very much.

CHAIRMAN GUIDERA: Thank you Mr. Burkhart. Are there any questions? Thank you sir. Judge Rubinow. I would like to take Judge Rubinow at this time so that he could get back to his duties at the court.

JUDGE JAY RUBINOW: Thank you very much, Mr. Chairman. I am Jay Rubinow, Probate Court Administrator. I would like to speak with reference to several bills this morning. The first one is 8143 which provides a new method for distribution of intestate estates and in connection with that bill I have a prepared statement that I would like to leave with the Clerk.

Very briefly, Mr. Chairman, with reference to that bill, it seems to me that it boils down to this. There is no question of public policy involved. It is simply a question whether we would assume that the average person of moderate means, and I say of moderate means, because such statistics as we have indicate that the vast majority of intestate estates are those of persons of moderate means. Whether the average person of moderate means would prefer that on his death his estate be distributed one-third and two-thirds as it is now or whether some preference - whether it is \$50,000 or \$35,000 - or some such figure, should go to the wife before there is any distribution to the children. Now you can very easily hypothesize facts under which existing law will create an injustice and result in a bad experience and it is very easy to hypothesize facts under which the proposed law will result in an injustice. So we have had the existing law on since the

JUDICIARY

WEDNESDAY

FEBRUARY 28, 1973

I would suggest, however, that for the safety of the fund if this bill is approved by this Committee that some statutory limit on the amount of the assessment should be incorporated into it. Thank you very much Mr. Chairman for taking me out of turn. I appreciate this opportunity to speak before the Committee.

CHAIRMAN GUIDERA: Are there any questions of Judge Rubinow? Thank you Judge. I would like to make an announcement. This hearing will have to be recessed at 1:30 P.M. because we have an executive session for business on the floor of the House today and we do have a session of the House at 2:00 P.M. so we would like to hear everybody and we will hear you at the end of the session in the event you are not finished. But I would like if you are all speaking on one bill, maybe you could have one speaker speak for or against the bill and submit written statements if you are able. We will hear everybody but I must caution you that we must recess at 1:30 P.M. Judge Kinsella.

JAMES H. KINSELLA, JUDGE OF PROBATE: Mr. Chairman, Members of the Committee, my name is James H. Kinsella and I appear here today as President Judge of the Connecticut Probate Assembly, commenting on the following measures: Committee Bill 1609 carries out a function which the General Assembly has already considered, treating men and women equally with regard to their estates when one of them becomes incompetent and is married. Prior to this time under the provisions of Committee Bill 1609 which corrects a situation which did not permit the use of a married woman's money without application to the Probate Court and the determination of an allowance, but did permit the use of a married man's money without any previous court approval. This corrects the situation bringing into equal focus the rights of men and women.

1612 is a Committee Bill bringing into the thrust of all other state retirement features the retirement provisions for judges of probate, under the direction and guidance of the Commissioner of Finance and Control and the price and wage index.

House Bill 8143 is an Act Concerning Intestate Succession. It is a substantive measure which has been raised and already discussed providing for the granting of an amount of money to the widow. The Probate Assembly feels that this is a matter of policy for the General Assembly to establish. As members of the judiciary charged with carrying out that responsibility, we will do whatever you think is appropriate.

8154 has to do with the payment of counsel for indigent persons in commitment proceedings. Now where a person is indigent and required to be committed to a hospital for mental illness and

JUDICIARY

WEDNESDAY

FEBRUARY 28, 1973

Senate Bill 1609. An Act Concerning the Duties of Conservators; House Bill 8143. An Act Concerning Intestate Succession; House Bill 8202, An Act Abolishing the Office of Registrar of Wills; House Bill 8218, An Act Concerning the Rule Against Perpetuities; House Bill 8246. An Act Concerning the Disposition of Small Estates; House Bill 8271. An Act Concerning Advancements Under Mortgages to Secure Future Advances; and finally House Bill 8294. An Act Concerning a Simplified Procedure of Non-Taxable Estates.

In all these matters, the Connecticut Bankers Association is in favor of these proposed bills. Thank you.

CHAIRMAN GUIDERA: Thank you. Mr. Ray Lieberman. Alan Houghton. Anyone else here who wishes to speak? Your name sir.

CHESTER J. DZIALO: I am Chester J. Dzialo of Middletown. I am here individually as President of the Middlesex County Bar Association, to speak on House Bill 7731. I am not going to talk about it. I would like more money for the Middlesex County Bar Library. There is a letter submitted by Senator Zajac and Ray Dzialo. It is a very valuable asset to let go downhill. It would be a shame. We are in favor of this bill. Thank you very much.

CHAIRMAN GUIDERA: Thank you. Other speakers?

ATTORNEY ROBERT STENGLE: My name is not on the list. I will be brief. I came in late. My name is Attorney Robert Stengle. I reside in Rocky Hill and I practice in Rocky Hill and I also have an office in Hartford. Gentlemen, as I understand it, there are two bills before you to propose the establishment of a probate district for Glastonbury. That is one bill. And as I understand it, there is another bill before you to establish a probate district for Rocky Hill, Wethersfield and Newington. And I would like to go on record as an attorney and as a citizen in opposition to those two bills.

I won't reiterate what Mr. Katz said. My opposition is on the same basis. I should note I heard Judge Rubinow oppose the splintering of probate districts. I think it is against the trend. I think it is against economics to do it and more specifically, gentlemen, I want to oppose the bill to separate anything in the Hartford Probate District because I used to be a clerk in the Hartford Probate District and I am personally familiar with how that court is run and how efficiently it is run. As a matter of fact, I think it can be fairly said it is probably the model court in the State of Connecticut. If any problem arises, usually attorneys and other judges contact the Hartford Probate Court. That efficiency should be maintained and not decentralized. I strongly urge we don't give special or specific consideration to any parties or any interest but look at the overall good of probate judiciary and keep the Hartford Probate Court in tact. Thank you.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 2
360-705

1973

FRIDAY

April 6, 1973

JUDGE CASSELLA: 8963.

SEN. GUIDERA: Would you give me those last three or four from 8273?

JUDGE CASSELLA: 8273, 8291, 8507 and 8963.

We oppose 1819, 1850, 1859, 1923, 2031 and 8605. We have no position on 1918. On 2030 which we have no position because we don't understand it at all. Its partially a — statute and we don't quite grasp its significance. 2058, 8142 we believe has been passed. 8215 and 9180. That is the present position of the Probate Assembly. We do really oppose the passage of 1923. This is the bill already mentioned which permits partner, associates of a judge of probate to act as a fiduciary at that judges court. We are unanimously opposed to this measure. The objective of the Probate Assembly and suggests that all courts be re-examined with regard to the authority for partner, associates, for members of the family, judges to appear in those courts. The appearance is in propriety not the impropriety, that's not it.

SEN. GUIDERA: Thank you judge. Any questions?

REP. HEALEY: Judge, it would be helpful if we could have a list in writing of that tabulation.

JUDGE CASSELLA: It will submitted to the committee.

SEN. GUIDERA: Helen Plum, Town Clerk of Trumbull.

MS. PLUM: Mr. Chairman, members of the committee, my name is Helen Plum, I'm Town Clerk of Trumbull. I'd like to speak in favor of Bill 1935. Regardless how carefull we try to be there have been instances where a grantor has been indexed as the grantee and visa versa. In most instances if there has been discovered before anyone has been hurt, however, there have been rare instances where a person has recorded a document and neglected to index it. Since we admit its serious but in no way was intentional. Probably the clerks attention was distracted from the functions of the office and he or she never returned to index the particular deed. We feel that we should be protected by our towns in the event that this or a similar error occurs in the fulfillment of our duties and that we not be expected to be responsible for obtaining and paying for our own attorney to defend us in court in the event of a suit, whether the clerk be compensated by a fee or on a salary.

SEN. GUIDERA: Are there any questions? Thank you Mrs. Plum. Ed Tomque.

MR. TOMQUE: Thank you Mr. Chairman. Chairman Guidera, gentlemen. Just briefly to speak to, I've spoken before here, on Bill 1908, the Connecticut Town Clerks Association is in favor of this bill that's for the annual inspection of land records. We feel that its very, very important. Secondly you just heard on the indemnification of town clerks, once again the Connecticut Town Clerks Association is in favor of this. I don't think its possible or should be probably that a town clerk should be held responsible for a computer error. We're moving onto computers and we hope with the passage of this annual inspection of land

S-92

CONNECTICUT
GEN.ASSEMBLY
SENATE

PROCEEDINGS
1973

VOL.16
PART 3
907-1451

Wednesday, March 28, 1973

48.

THE CHAIR:

Question is on acceptance and passage. Will you remark further? Senator Ciarlone.

SENATOR CIARLONE: (11th)

Mr. President, through you a question to the Senator who reported the bill out; could he identify or perhaps explain some language in line 47 on page 2 of the bill and define who is a legally liable relative.

THE CHAIR:

Senator Hellier, if you wish. Will you remark further? Senator Rome.

SENATOR ROME:

Yes. There is another statute dealing with the definition of a legally liable relative and I think I would refer the Senator to that statute.

THE CHAIR:

Question is on acceptance and passage. All those in favor signify by saying Aye. Opposed Nay. The ayes have it.

THE BILL IS PASSED.

THE CLERK:

Cal. 216, File 89. Substitute for House Bill 8143, AN ACT CONCERNING INTESTATE SUCCESSION. Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Guidera.

roc

Wednesday, March 28, 1973

49.

roc

SENATOR GUIDERA: (26th)

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

THE CHAIR:

Will you remark.

SENATOR GUIDERA:

Yes, Mr. President. This represents, this bill represents a major change in the laws of intestacy of the State of Connecticut. This bill is a codification so far as I know of the uniform probate code recommendations. The present law is that when an individual dies, the spouse dies without a will and he is survived by children and no parents, the children regardless of the number of children that he has will get two-thirds of his estate. His wife simply gets one-third absolutely. Where the individual where the spouse dies and is survived by a wife or husband as the case may be and there are no children but there is one or two parents surviving, the wife gets the first \$5,000 and one-half of the remainder of the estate. The parent or parents get one-half of the remainder of the estate. There are four major changes and provisions in this bill, Mr. President, and I think I might add parenthetically that this is the bill that is long, long overdue in the State of Connecticut.

If there is no will and we are talking here in the case where there is no will, we are not talking about the case either where there is no will but the decedent has held his property in survivorship, his real property in survivorship,

Wednesday, March 28, 1973

50

let's say with his wife, in that case it just passes to her. We are talking about property that belongs to the decedent alone and he has not drawn a will, what happens to his estate. If there is no surviving issue, that is children, grandchildren, great grandchildren, et cetera, or a parent of the deceased, then the spouse gets the entire estate.

Second, if there is no surviving issue, no children but the deceased is survived by a parent or parents, the spouse receives the first \$50,000 plus three-quarters of the balance of the estate if any.

Third, if there are surviving issue of the deceased, all of whom are the issue of the surviving spouse, the wife gets or the spouse gets the first \$50,000, plus one-half of the balance of the estate.

Fourth, if there are surviving issue of the deceased, one or more of whom are not the issue of the surviving spouse, then the surviving spouse gets one-half and the children get one-half.

As I have said, Mr. President, this a reform that is long, long overdue. As I understand it, in the 1971 session, this bill made it through the Connecticut State Senate but it did not make it through the House of Representatives. It has not passed the House of Representatives and is before us. If you go out onto the street or if any of you have raised this subject during a campaign, you will find that in talking to most people - ask them - now, if you die without a will, what

Wednesday, March 28, 1973

51.

do you want your wife to get, of course after you eliminate the guys who don't want their wives to get anything, you eliminate the guys who want their wives to get everything - most people will say that certainly my wife or if you are talking to a wife, my husband should have at least one-half of my estate. When you tell them that if they don't have a will that the spouse is going to wind up with one-third of the estate and the children, regardless of the number of children, are going to wind up with two-thirds of the estate, they become horrified and run out and they draw a will. At least some of them do. Some of them never do. Whether through inadvertence or whatever, they just never make a will and they find themselves in a precarious position. They realize that they have put their spouse in a precarious position for the rest of her life or his life. I think it is long overdue. I think it is something we need in the State of Connecticut. But most importantly it is something that has the overwhelming support of not the members of the Bar but the general public which is most important.

THE CHAIR:

Senator Scalo.

SENATOR SCALO: (22nd)

Mr. President, I rise to support this bill. In my practice of law I have seen the situations to which Senator has just alluded to and they have caused undue family hardships; they have caused fights among survivors. I have seen situations where there hasn't been very much money but through inadvertence

Wednesday, March 28, 1973

52.

on the part of the deceased, no will was prepared and the children may have inherited a small portion or perhaps a piece of real estate and then the fight starts. Child against parent. Brother against sister. And I think that what we have here is something, as has already been said, that is long overdue. The basic amount, I think, is just, the \$50,000. Most of the estates, small estates, those people who usually don't have wills will come within the purview of that amount. I think that it is something that the little man needs and this is a good opportunity for this Legislature to do something for that little man. I support it wholeheartedly.

THE CHAIR:

Senator Costello.

SENATOR COSTELLO: (33rd)

Mr. President, through you, a question to Senator Guidera. Senator, you have covered the situation if there is a cash assets in the estate. Now take a hypothetical of my estate, assuming that when I die and I die intestate leaving a wife and children surviving me, that my sole asset is my scroll, signed by the Secretary of the State, saying that I was once a Senator, how would that be divided under this bill?

THE CHAIR:

In pieces, as Senator Fauliso says. Senator Guidera.

SENATOR GUIDERA:

I can hardly wait to answer. I don't think anybody would want it, Senator.

Wednesday, March 28, 1973

THE CHAIR:

Senator Costello.

SENATOR COSTELLO:

I think I had better leave it to my aunt. I think the chances are good that that might happen, however. I would like to join in support of this bill because in small estates, particularly where the children wind up with a two-thirds share, it is a great hardship on the surviving widow and I think, although no solution is perfect, this is a tremendous improvement over the existing law.

THE CHAIR:

Senator Petroni.

SENATOR PETRONI: (24th)

Mr. President, members of the circle, at the risk of offending my fellow members of the Bar, primarily I think more important than that, my own spouse, I rise to oppose this bill. I can understand that the law has been the same for over 200 years in this State, as far as testate successions are concerned, and during the 15 or 16 years that I have practiced, I have not had one lawyer in my district, my probate judges or one citizen ever say to me that this change is long overdue. I have not had any little man, and I represent a lot of people who are not of substantial means, say to me that this bill is something he wanted. In fact, what you are doing in this bill, I do agree that it will take most of the estates and will all descend by intestacy under this bill to the wife or spouse, either husband

Wednesday, March 28, 1973

54.

or wife. I think that's a fact. That will, I think, be proved in the statistics of the State Tax Department, but when we are doing that, what we are doing in effect is a man who has not chosen to, or a woman, draw a will, in effect cut out his children. I've heard people talk about what people say they should do. I think it is a little presumptuous to try, on my part anyway, to come to the conclusion that this is what is necessary for someone else because we feel that they want it that way without having anyone say it. Therefore, I don't feel that this is a bill that anyone ever told me they needed. I don't find that any injustices, in my experience, have occurred when the estate would descend by intestacy to the children. In fact, all of us know that if someone felt there was going to be that would be an injustice or inequitable, their solution is simply to prepare a simple will. So there is remedy for those who choose to have their estates go to their spouse or to anyone else. I have not, as I said, had lawyers, judges or even citizens in my area ever say that this is one issue for probate reform or that was ever needed. Therefore, when I have that kind of silence I decide that 200 years may not be a bad test of what may have been good for the people.

THE CHAIR:

Senator DeNardis.

SENATOR DENARDIS: (34th)

Mr. President, members of the circle. I have been listening very carefully to this debate over a question that I

roc

Wednesday, March 28, 1973

55.

don't normally have very much contact with, at least not yet. And I have been eager to hear the merits of the argument for and the demerits against and all I have heard, and I am not taking a position for or against this bill, but I am eager to hear solid reasons other than the man in the street says or there is no compelling reason for, in my judgment after my years in the law practice; what is there about today's society, gentlemen, if you care to respond, that would require this from an economic, social on other points of view. That's what I want to know.

THE CHAIR:

Senator Guidera.

SENATOR GUIDERA:

Is that a question? Through you, to me, Mr. President.

SENATOR DENARDIS:

That question is certainly through the Chair to whomever wishes to respond.

SENATOR GUIDERA:

Mr. President, let me just give you two examples of what can happen under the present law. One of them happens to be a personal experience. My own father happened to pass away intestate and he was the kind of man who never got around to making a will for one reason or another. He held a great deal of property in his own name and when he passed away I, as an only child, inherited two-thirds of his estate. My mother inherited one-third of this estate. She couldn't live in the

roc

Wednesday, March 28, 1973

roc

house that she always lived in without technically paying rent to my trustees. Fortunately, I had good trustees, they never demanded rent, although they threatened it at one time. And that sort of a thing is the kind of thing that can and does happen. Let me give you a second example. A man recently died in Wilton. He was about 68 or 69 years old, survived by his wife who is 65 and his father was alive and his father was 94. And the decedent had never made a will and he held everything in his own name. His wife was entitled to nothing. The wife got the first five thousand dollars and the wife got one-half of the balance of a \$1 million estate and the 94 year old father got the balance of one-half of the \$1 million estate. That's the kind of thing that happens. And sure you can think of examples where you think that elderly people should be taken care of. They are being taken care of under this bill because they get one-quarter of the estate. One quarter of the remainder after fifty thousand dollars. I hope I am responding to you question, Senator DeNardis. I think that in today's day and age where a man and woman live together, where a woman is going to be responsible if her husband should die, to raise the minor children of the marriage, the issue of the marriage, that it is in her hands that the money should be to provide for education. She is certainly not going to squander it upon herself, to be sure there must be a case someplace where there is a mother who has inherited money, who has squandered it upon herself and let the children have nothing. That's true. But

Wednesday, March 28, 1973

57.

I think those are exceptions to the rule. The general rule is that the wife has to raise the children and she should be entitled to have full control of the money in order to raise them, realizing that the children should also have something for themselves which is one-half of the remainder after fifty thousand dollars.

THE CHAIR:

Senator Winthrop Smith.

SENATOR WINTHROP SMITH: (14th)

Mr. President, Senator Guidera has stated the case quite well. I would just like to state that in my business, we do see this. We see people at their best and at their worst. And as Senator Guidera has stated, there are occasions when it doesn't work out for these survivors' benefit and the present law does work incredible hardships on some people in these situations. And I think that the revision we have here is a good one. I speak in favor of this bill.

THE CHAIR:

Senator Fauliso.

SENATOR FAULISO: (1st)

Mr. President, I participated in the deliberations of the Judiciary Committee on this particular bill. I support it. I don't think I can elaborate any further than the Chairman of that Committee. I think that the examples that he gave are clear and certainly point up the need for this particular bill. In response to Senator Petroni, I don't think we have to

roc

Wednesday, March 28, 1973

58.

consider the little people here because the little people when they die, they don't leave anything. We are concerned here with people who leave something and usually it's people who leave substantial property. But the moral to this story is when you are sick you consult your doctor and before you die you had better see your lawyer and draft your will.

THE CHAIR:

Senator Costello.

SENATOR COSTELLO:

Thank you, Mr. President. I would like to accentuate the final point Senator Guidera made. I think the compelling social reason for this change is in the cases of very modest and small estates where the typical case is that the surviving mother and children are left with an awkward situation of the mother having to account for two-thirds of the funds through the Probate Court as she tries to rear young children with a very small estate. It is an extremely burdensome situation. And in the other situation of the small estate where the surviving spouse is elderly and if two-thirds go to children who may be young and off on their own and young married families, they may not always want to surrender any of those two-thirds to their elderly mother who may wind up on the welfare rolls rather than having the benefit of the full fifty thousand dollars. I think those are the most compelling reasons for the passage of this new law.

roc

Wednesday, March 28, 1973

59.

THE CHAIR:

Will you remark further? The question is on acceptance and passage of the bill. All those in favor signify by saying Aye. Opposed Nay. The ayes have it. THE BILL IS PASSED.

THE CLERK:

Cal. 217, File 62. House Bill 8202, AN ACT ABOLISHING THE OFFICE OF REGISTRAR OF WILLS, amended by House Amendment Schedule A. Favorable Report of the Committee on Judiciary. The Clerk has an amendment, Mr. President.

THE CHAIR:

Senator Guidera.

SENATOR GUIDERA: (26th)

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

THE CHAIR:

Will you remark.

SENATOR GUIDERA:

Mr. President, the Clerk has Senate Amendment Schedule A.

THE CHAIR:

Will you remark on the amendment.

SENATOR GUIDERA:

Yes, Mr. President. Senate Amendment Schedule A begins where House Amendment Schedule A ends and I don't think it is possible to discuss Senate A without discussing House A and the

roc

H-133

CONNECTICUT
GEN.ASSEMBLY
HOUSE

PROCEEDINGS
1973

VOL.16
PART 3
939-1415

March 20, 1973

121
psk

REP. STEVENS:

May that matter be passed, retaining its place on the Calendar.

THE SPEAKER:

Is there objection to the gentleman's motion to pass-retain this item. No objection..it will be so ordered and the item will be passed retaining its place on the Calendar.

THE CLERK:

Calendar No. 101, your file No. 89, Substitute for House Bill No. 8143. An Act Concerning Intestate Succession. Favorable report of the Committee on Judiciary..

THE SPEAKER:

Gentleman from the 72nd, Rep. Healey.

REP. HEALEY (72nd):

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

THE SPEAKER:

Question is on acceptance and passage. Will you remark.

REP. HEALEY (72nd):

Yes, Mr. Speaker. The present intestate law of the State

March 20, 1973

122
psk

of Connecticut is approximately one century old without any change. The last time that we touched this field was when we got rid of the anachronism in a modern day society, or the society of a century ago of dower and curtesy. A century ago, when we did get rid of dower and curtesy, the provision as to the distribution of an intestate estate and the event there were surviving spouse, was that if there were children, the surviving spouse would get one-third and the children, whether they be one or fifteen, get two--thirds. If there be no children, if there be a surviving parent of the decedent the surviving spouse got the first five thousand dollars, and then all over that he or she divided with the parents or parent of the decedent. There has been a very definite strong feeling of the Committee, of the Bar Association, of all people who are concerned with this field, that this is completely out of step with the wishes of the man in the street, The man in the street is absolutely shocked when he finds that this is the law in the State of Connecticut. I practice law. The biggest part of my practice is in the field of wills, estates, and trusts, and consistently, I find that when a husband

March 20, 1973

123
psk

and wife come to me for the purpose of having a will drawn their number one objective is to make sure that the surviving spouse is the one who is taken care of. And only after that surviving spouse is taken care of do the children get into the act. Going on the basis that this is what most people want, and it's reflected in what most people do in their wills, the proposed amendment provides as follows: that if there be children, the surviving spouse gets the first fifty thousand dollars and all over that is split 50-50, the spouse getting the half and the children dividing the other half. If there are no surviving issue, but there is a surviving parent or parents, then the surviving spouse gets the first fifty thousand dollars and three-quarters of the excess. And one-quarter of the excess goes to the parent or parents. In the event that the deceased had children by more than one marriage, then the provision is that the surviving spouse get one-half only. In other words, the fifty thousand dollar rule doesn't apply, and all of the children of the deceased split up the other fifty percent. The reason that we made this provision when there are children by more than one spouse

March 20, 1973

124
psk

is because we have found from experience that there frequently is reluctance on the part of a person to give everything to his spouse for fear that she may, or he may, cut out the children by the earlier marriage. I have referred here to children of a marriage. We of course do have the rule in the State of Connecticut that illegitimate children of a woman are her heirs, and, therefore, this rule about children by different spouses really is saying if it is a woman who is the decedent and she had children out of wedlock and then children in wedlock they'd get this one-half. There is one further technical thing which this bill does. Presently a spouse has one of two options where there's a will: either to accept the provisions of the will and that's it, or to take against the will. This makes it clear that if there is partial intestacy then that surviving spouse is entitled to share in the partial intestacy. I believe, Mr. Speaker, that this bill is long overdue, and it ought to pass.

THE SPEAKER:

Will you remark further. If not, if the members would

March 20, 1973

125
psk

please take their seats. Staff members come to the well.

Gentleman from the 111th.

REP. CAMP (111th):

Mr. Speaker, although I am familiar the intestate succession laws of the State of Connecticut, could the, Mr. Healey, inform me please, where is the section relating to those parts of the estate which are not specified in this. They're in another section, I believe. Could you indicate what that is.

THE SPEAKER:

The gentleman care to respond.

REP. HEALEY (72nd):

Yes, Mr. Speaker. I assume, Mr. Camp, that you're talking about partial intestacy.

REP. CAMP (111th):

Yes.

REP. HEALEY (72nd):

Line 38 and 89, sir.

REP. CAMP:

As I understand it, this bill, Mr. Healey, provides for

March 20, 1973

126
psk

the what the surviving husband and wife would take, where is the provision in the statutes that relates to what the children would take, that is if they would take the balance not specifically provided here.

REP. HEALEY (72nd):

That is in Chapter 45, sir, not in Chapter 46.

REP. Camp (111th):

Thank you.

THE SPEAKER:

Gentleman from the 92nd.

REP. WEBBER (92nd):

I would point out and, for the benefit of those on the other side, you note how well prepared our people are when we report out a bill. We have all the answers to all the questions.

THE SPEAKER:

Will you remark further. If not, if the members would please take their seats, staff members come to the aisle. The machine will be opened. Has everyone voted. The machine will be closed and the Clerk will take the tally.

March 20, 1973

127
psk

THE CLERK:

The tally on House Bill No. 8143

Total Number Voting.....	141
Necessary for Passage.....	71
Those voting Yea.....	141
Those voting Nay.....	0
Absent and Not Voting.....	10

THE SPEAKER:

The bill is passed.

THE CLERK:

Departing from the Calendar. House Resolution No. 26.
Resolution expressing sympathy on the death of Marjorie G.
Campbell.

THE SPEAKER:

Gentleman from the 143rd.

REP. MATTHEWS (143rd):

Mr. Speaker, move adoption of the resolution.

THE SPEAKER:

Question is on adoption of the resolution. Will you re-
mark.

REP. MATTHEWS (143rd):