

Legislative History for Connecticut Act

HB 8235	<73-373>	1973
	202, 207-213, 218-227, 233-239, 387-398,	
Judiciary	404-409, 445, 461-470, 483-487, 497-499,	
	511-512, 550-554, 583-587.	75p
Senate	1389-1391, 1406-1421, 3254-3258	24p
House	1461-1494, 1928-1994, 3048-3062,	
	5914-5923	126p
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REP. POST con't: a law suit against them. But as it is currently written its a bit ambiguous, it would seem to apply only to a landowner who has five or more acres and only if he dedicates all of his land for public use.

I support the concept and I would like to suggest that this bill does do this, to extend that concept so that a landowner who owns less than five acres could make his land available for public use, be it a bicycle path, be it a trail through his property or a pond for skating for the children, or whatever it maybe, that he be entitled to have this kind of protection if he has less than five acres.

I would also like to suggest and again this bill takes care of its second problem, that if a landowner is going to dedicate less than all of his land, the land so dedicated for public use will also receive this protection, so that if the land owner has thirty or fifty or one hundred acres and is going to dedicate for public use a trail through it for riding or hiking or whathave you, he could obtain this protection and not have to dedicate all of his land and in this way we could encourage landowners to make their properties available for public use at no cost to the state and he receives a certain protection. This bill would extend concept that is currently on the books to small land owners and larger landowners who are willing to dedicate a portion of their property to the public.

I hope that the Judiciary Committee would pass favorably on the bill.

The second bill which I would like to indicate my support for is 8235, having to do with dissolution of marriage. I would like to commend the Judiciary Committee on bringing this matter to public debate. It is controversial but I would support the concept of trying to avoid or eliminate the adversary nature of current divorce laws and I think that your statement of purpose in this bill is directly in point. This change would eliminate the hypocritical, harmful proceedings to the parties and substitute a more relevant proceeding whereby conciliations attempted have failed and the parties are able to get a divorce without trying to place the blame on one of them and I would like to indicate to you how my support of this particular bill. Thank you.

REP. BINGHAM: Thank you Representative Post. Are there any other Legislators? If any other legislators come in will break in so that we won't waste time. We'll now open the hearing for the public. Daniel Brennan.

DANIEL BRENNAN: My name is Daniel Brennan, from Bridgeport, I am a lawyer. I speak only for myself. I have been a member of various committees and boards of the local Bridgeport Bar and the State Bar and the American Bar Association, and I have been in practice since 1938, so I am aware of with a reasonable degree of accuracy, the things that go on in our local

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DANIEL BRENNAN con't: in the morning and they decided what jobs they were going to get out that day. That goes on today. The courts spend three-quarters of an hour. Now they've got tremendous logistics problems. When you try to gather together all the people that have to be gathered for a trial, there is an enormous logistic problem. But I say, that kind of thing should be taken away from the judges, they should want it taken away. They should be there to hear the business that comes before them and what happens on what business before them on any given day ought to be handled professionally and ought to be handled by this administrative body established to take care of it.

REP. BINGHAM: Thank you Mr. Brennan. Mr. Donald Pittsley or before Mr. Pittsley, are there any other legislators that have come into the room that wish to speak? Mr. Pittsley.

DONALD PITTSLEY: Mr. Chairman, members of the Committee, my name is Donald Pittsley and I am President of Connecticut Motorcycle Riders Association and Executive Secretary of the Motorcycle Dealers Association.

Both Associations would like to go on record in being in favor of Committee Bill 8140 and Committee Bill 8151. Bill 8140 would protect the landowner of fewer than five acres of land and also of the owner part of the land available to the public, we feel that this is a good bill.

The other bill 8151 would provide additional recreation land for use of all terrain vehicles and motorcycles. We would like to suggest that the words, 'minibike or minicycle' also be included to help clarify their operations on such land as proposed in House Bill 5142. Thank you.

REP. BINGHAM: Thank you. Are there any questions? Thank you Mr. Pittsley. Mr. Samuel Schoonmaker.

SAMUEL SCHOONMAKER: Mr. Chairman and members of the committee, I am appearing here this morning in connection with House Bill 8235, Concerning Revision and Reform of the Connecticut Laws relative to divorce. I am chairman of the Family Law section of the Connecticut Bar Association, which played a part in the drafting of this legislation, and I'm also appearing today, as it indicates today, that the Connecticut Bar Association has endorsed this bit of legislation.

The thrust of this legislation is to reconsider all aspects of the laws pertaining to divorce and legal separation in Connecticut. It was the feeling of the section that drafted this legislation that the current Connecticut Laws work substantial hardships in many instances on the parties to divorce and separation in proceedings and to their children and to the proper administration of justice and the bill has been drafted with those considerations in mind. Family Law Section is very concerned about the integrity of the family

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SAMUEL SCHOONMAKER con't: unit and we want the laws of Connecticut to be drafted in such a way as to best preserve those family units that can be preserved and to terminate with as little trauma as possible, especially to the children of those marriages that serve no social or personal purpose.

Most persons who have practiced before the Superior Court in connection with matrimonial matters would, I'm sure, agree, that the current Connecticut system, where one spouse is obliged, in order to obtain a divorce, to go into court and to testify in public, concerning behavior on the part of another spouse, which in essence, charges that other spouse with gross human misconduct, either adultery or intolerable cruelty or the other grounds that we have. Often this evidence is at best only a half truth. The full truth never being known by the court and the persons involved have to undergo this indignity in order to accomplish a result, which the parties agree ought to be accomplished.

We feel that this particular procedure isn't in the best interest of the parties nor is it in the best interest of their children. It is not a good thing to have one party charged on the public records, another party with misconduct. To have that misconduct then become a part of the public records permanently for perhaps the childrens embarrassment and more than their embarrassment have their relationship with their parents adversely affected. So that what this bill proposes is to substitute for all the existing grounds for divorce in Connecticut, one ground which should be the focus of everyone's attention whether or not a marriage is broken irreparably or whether it hasn't... if it hasn't the state ought to do everything it can to preserve it, if it has we ought to terminate it in a dignified fashion for the good of everyone.

In addition to that over-riding consideration we felt that the provisions in Connecticut Law regarding protection of children and regarding conciliation and reconciliation where reconciliation is a possibility ought to be strengthened.

The bill contains a number of provisions that strengthen the rights of children and protect children. In the first instance I already referred to one, which is that it will no longer be necessary for the parents to wash their dirty linen in public and that could be an advantage to the child. And where there is an actual dispute on custody the court is entitled to appoint an attorney to represent the minor child. We feel that in certain circumstances that an attorney for the child will protect his rights better than they are protected in the court at the present time where only the mother and father have an attorney and sometimes the interest of the parents over shadow those of the children. I don't say that that is a general thing but I feel that the court ought to be given the power to protect children if necessary.

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SAMUEL SCHOONMAKER con't: We also provide that in the case that neither party is in a position or fit to take charge of children parties who might be in a better position be permitted to come to court to have their case heard and if appropriate the judge could award custody and visitation rights to others such as grandparents, uncles and aunts and other people of that kind and might be in a better position at a particular instance to handle the children than the parents are. Anyway the court ought to be given some discretion in that area.

On the subject of conciliation Connecticut Law at the present time does have a provision which if properly used with permit the court to order conciliation but as a practical matter is rarely used. The present bill however, and now before you requires that the parties attend two conciliation meetings if the one party of the marriage feels that marriage is not broken down and wants an evaluation of the marriage to determine whether it has or hasn't, two mandatory conciliation sessions are necessary.

Now we feel that two mandatory conciliation sessions can accomplish two things; number one reconciliation can be explored and number two, if the marriage is hopeless the conciliator might be able to prepare the party who has some doubts about that for the dissolution of the marriage.

The rest of the bill I think is quite straight forward and self-explanatory but obviously from the terms of it, it will not produce a result where people come into the State of Connecticut for the purpose of obtaining a divorce. The residence requirement is kept at one years as is traditional under our law. Nor can the parties on a whim go into court and get a divorce, a ninety day cooling off period which is now in our law is preserved and after that cooling off period, if one party still feels that the marriage has not broken down irretrievably the party is entitled to a hearing on that issue and a judge will decide if the marriage is broken down or if it is broken down. If it is not broken down the judge can dismiss the petition and the parties remain married, if either party feels that they do not want to remain married, they can ask for an adjournment of six months and after that six months period, if one party still persists in seeking a divorce and providing all issues of custody and finances have been resolved, then the court will dissolve the marriage. I want to repeat that because that is very important that no marriage will terminate until all questions of custody, visitation and property have been resolved either by a settlement, achieved by the parties themselves or by a court decision.

The financial aspect of the law remains essentially unchanged except that the question that of which party was at fault is not to be considered in the award of property or alimony.

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SAMUEL SCHOONMAKER con't: The Family Law Section feels that in our experience, that most marriages are not broken down by virtue of the actions of one party and that it is very unrewarding and sometimes hopeless task to try to ascertain what initially caused the marriage to go off the track and you get into a circularity situation as to what caused the party to take certain action, was it provoked by another party's action and you keep driving back the causes and perhaps you can never find an answer to this. The question is whether it is a worthwhile exercise in the financial area to go into the fault of the parties.

The behavior of the parties, their conduct does remain very important in the custody area, obviously you cannot determine custody questions without going into the fitness of the parent. So that the fitness of the parent remains a prime consideration in custody matters.

On the question of alimony we feel that alimony ought to be a more positive rehabilitative factors in the law than it is at present. We feel that under certain circumstances especially where the parties are young and they have vocational skills they ought to be encouraged to go out and to make a life for themselves after a marriage has been dissolved.

Therefore, the option is given to the court in certain circumstances where the courts discretion feels it appropriate to grant alimony for a definite limited period of time and perhaps review that determination after a period of time to see whether the party who has been awarded alimony is making an effort to rehabilitate himself or herself.

In essence that is our proposal. I will say that in connection with the endorsement of the Connecticut Bar Association, the Connecticut Bar Association holds the members of the Connecticut Bar in December and as to the question of whether the traditional grounds for divorce ought to be abolished and irretrievable marriage breakdown ought to be substituted 81.7% of the persons responding to the poll favors the elimination of the judicial grounds for divorce and the substitution of irretrievable breakdown.

Further of the persons who have read this bill that is before you, the Connecticut Bar, 73% favored it and 22% opposed, those are the people who have studied the particular measure in question. This bill is by no means a novel concept and by latest count in January eleven other state had adopted similar legislation. The ones adopting similar legislation at the present time are Colorado, Florida, Kentucky, and Nebraska, where irretrievable breakdown, which is our bill here, is the grounds for divorce. Other states with similar grounds are California, New Hampshire, North Dakota, and Oregon. Other states granting divorce of irreconcilable difference between the parties are Texas allows the decree entered if the marriage is unsupportable. Iowa and Michigan dissolve a marriage where there's been a breakdown in the marriage

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SAMUEL SCHOONMAKER con't: relationship to the extent of the legitimate objects of matrimony have been destroyed. In addition there are other states where grounds, somewhat similiar, namely incompatibility are also have been adopted, Alabama, Kansas, New Mexico, and Oklahoma. This is a very substantial increase in the number of states adopting this legislation since I last appeared before this committee in 1971. At that time only three Texas, California, and Iowa had adpoted this legislation. By my most recent count we are now up to eleven or fifteen if you consider incompatibility to be a similiar bill. It is in a way but not in other ways.

The Family Law Section is also pleased to advise that in addition to the Connecticut Bar Association this bill has received the endorsement of the Greater Hartford of Churches, the Connecticut Jaycees, Family Service of Hartford, Northern Connecticut Chapter of the National Association of Social Workers, Stamford Section of the National Council of Jewish Women, Legal Services Project Directors Council Service Bureau for Women and the Connecticut Council of Child Psychiarrist. Nothing further Mr. Chairman.

REP. BINGHAM: Mr. Schoonmaker, Professor Rhinestein's book, "Marriage, Stability and Divorce", sets out the correlation between this type of a bill and the number of divorces and ... do you have an opinion if whether we pass this bill the divorce rate will icrease? Or is there a connection between this type of bill and a state which has specific grounds for a divorce, such as this state?

SAMUEL SCHOONMAKER: That's a question of great interest to me and I have gone into it deeply. Professor Rhinestein's Book, I'm familiar with that book, he finds that there is no correlation whatsoever between the number of grounds the state has or the number of grounds that the state adds and the number of divorces obtained in that state. There seems to be no correlation. This has been confirmed to me, also, in my conversations with judges and lawyers in California, as I am in touch with them on a regular basis. They find in California that there is no correlation between the increases in the number of divorces, and let me just say, that on a nationwide level and indeed a world wide level, there is an increase both in the absolute numbers of divorces and rate of divorces and infact, in Connecticut over the last several years there have been a very marked change in the number of divorces granted and partially due, I may say in Connecticut the figurds are distorted because of Mexican Divorces became unavailble and my recollection is 1970 and right after the Mexican Divorce became unobtainable there was a marked increase in the number of divorces granted in Connecticut and I think that if that were studied, you would see that that was a deflection of the people going out of state. Let me just say on that issue I don't think Connecticut residents should

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SAMUEL SCHOONMAKER con't: have to go anywhere else in order to have legal matters adjudicated and I think that the, its the states responsibility to pass a fair and equitable divorce measure so that they don't have to go to Haiti or the Dominican Republic or Mexico as was in the past.

But back to Mr. Bingham's question. In addition to the information from Professor Rhenstein, there is no correlation changing grounds for divorce and the increase in divorce rates. Practitioners in Texas have found no increase nor have the practitioners in California. I single those states out because they've had the bill since 1970 and therefore, have some experience. The rest of these states have just adopted the bill in 1971 and 1972 and their experience is really not in yet.

REP. FREEDMAN: Mr. Chairman. Mr. Schoonmaker, you touched on this briefly but what impact if any do you think this bill will have on the phenomenon know as migratory divorce. Would there be any significant impact on it?

SAMUEL SCHOONMAKER: I think that there will be a marked impact on migratory divorce. I think that migratory divorce will be greatly reduced if this legislation is passed. Then people will feel that they can adjudicate their matters in Connecticut properly without some the bad features of the current laws that I outlined.

REP. FREEDMAN: Second question, you referred to 81% in favor of the concept of as this bill sets it forth. What percentage of the Bar actually answered that inquiry.

SAMUEL SCHOONMAKER: About 25.1 or 2 of the Bar, which is typical response to a Bar poll. That's what the Bar regards as a representative sample of a sample of the Bar.

IRVING STOLBERG: Mr. Schoonmaker, I'd like to thank you for, what I feel, is a very clear and logical exposition. I find it hard to envision some of the counter arguments to the case you presented and while not forcing you to present opposition arguments, I wonder if you could lay out before the committee what opposition would be to such a bill?

SAMUEL SCHOONMAKER: Well, I hate to speak for the opposition because I don't want to mischaracterize their remarks but there is a feeling in certain circles that it is entirely proper in deciding financial aspects of these matters, that the court enquire into, which party was at fault. As I said, we feel that this is a very difficult task for the court and one that is not very productive. What is to be gained from that really? According to the critics of this bill, is that, a person who is entirely blameless in having a marriage breakdown, ought not to have any adverse financial effects from the breakdown and therefore, one person is innocent they shouldn't be penalized financial and if a

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SAMUEL SCHOONMAKER: and if a person is guilty they shouldn't be awarded financially.

Theoretically, I feel that that argument has some merit, but practically speaking, it just doesn't work that way with marriages. Marriages are very rarely broken down by one party alone and therefore, after the court gets through trying to determine who did what to whom, don't think that the courts in any better position to make an award of alimony or property than it would be if it hadn't gone into that question in the first place and it has adverse effects.

The sideeffects of that is that it increases the animosity between the parents and the animosity increase between the parents often reflects in the parent injecting themselves adversely into the relationship with the children and so we felt that on balance, it was better to keep this question of charge and counter-charge between the parents out of this legislation.

SEN. GUIDERA:

Mr. Schoonmaker, since time and memorial the state has said that it is a third party to a marriage. Husband, the wife and the state. And the state of course, must consent to any divorce, dissolution of the marriage, but as a practical matter, the state has really never made any effort has it, to save a marriage, except to look into the grounds for divorce. The happenings between the parties never really require any kind of counseling. It seems to me that this bill is the first attempt that we've seen in the State of Connecticut to require some sort of marriage counseling, would you agree with that?

SAMUEL SCHOONMAKER: Well, you have a provision in the law at the present time which if used it could enable the court to require the parties to conciliate or look into the possibility of reconciliation. The practical matter it has not been done, it should be done. I think that the state has a very definite interest in these marriages. Particularly the marriages produce children because the quality of life in the next generation in Connecticut and elsewhere, is going to be guided in part by the quality of the children we rear and so the state most definitely has an interest in seeing to it that marriages exist properly and when they are going to be terminated that they terminate properly in the best interest of the children and the children of the society.

SEN. GUIDERA:

Any questions? Then thank you Mr. Schoonmaker. Mr. Melvin Katz.

MELVIN KATZ:

Mr. Chairman, members of the committee. My name is Melvin Katz, I'm an attorney here in Hartford and I'm here this morning to address myself in behalf of the Connecticut Bar Association, very briefly, I trust to House Bills #8111 and 8144, which relate to the comparative negligence provision in the new "No Fault Law". To House Bill 8152, dealing with

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REP. BINGHAM: Mr. C. W. Brewster.

JEAN BREWSTER: I am Jeannie Brewster and I would like to say that I have two sons in my family and they are both nineteen and there is discrimination amongst the two boys. One could be thrown out of the house and the other boy has to be taken care of on this bill 6960 and 8298.

REP. BINGHAM: Are there any questions? Thank you very much. Harry Caucher? Richard Cunningham.

RICHARD CUNNINGHAM: Mr. Chairman, Members of the Judiciary Committee, I am here to speak on a most significant piece of legislature before this committee and that is bill #8235, the so called "No Fault Divorce Bill". And I might in just a few words say that what this means is the end of marriage as an institution. It was stated earlier, I believe, that in states where this has been passed there was no increase in the divorce rate, well let us examine the divorce rate in some of these states .

Lets look at the State of California. If we look at the divorce rate in 1971, that is the number of divorces in compared with the number of marriages five years earlier, we see that in California approximately 80% of all marriages are ending in divorce. We can look at the States of Oregon and Michigan and Florida and we see that its up over 50%. Now if you were to take the latest World Almanac and the one five years ago. If each of you on this committee were to do this, you would see that these states that have adopted it have higher rates of divorce. As a matter of fact quite interestingly enough as a kind of determination is the divorce laws don't affect the rate of divorce if you look at studies like Rhinestein's, where it was determined that well, as the number of grounds increases this doesn't seem to increase the number of divorces. It is not the number of grounds for if we adopt this one ground and the divorce rate goes up then by that kind of analysis meets a counter-indication, in other words the conclusion would be that as you increase number of grounds the divorce rate does go up but indeed even drops. Now those studies are there only for the purposes to try to encourage this kind of legislation.

And it has been made out for example that the conciliation passage in this piece of legislation will help strengthen marriage. Well the State of California was the first state to press for this kind of legislation. They've had it for over a decade. What is the result in California but 80% of all marriages ending in divorce. No, that does not help save this bill. I believe that what should be done, yes conciliation but under the present law we have a passage which is unused. I think the court should use this and they do not. It should be used and perhaps legislation should be added so that it is used as a compulsory. But that

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RICHARD CUNNINGHAM con't: does not justify this major change on the grounds of divorce.

What happens you see, is you make divorces easier and easier year after year in this country. What happens is you have more divorces, more breakdown of the family. What happens is this we don't live in a vacuum. If it could be assumed arguendo, that these certain group of marriages are broken down irretrievably anyway and we're just letting happen what has already occurred then there might be some justification for this. What happens is this, as one marriage breakdown these two people are then separated and put out into society separately, then looking for new partners, married or unmarried, that affect other marital partners.

It also affects marriages in general in this very simply way, that is as a marriage becomes less stable as there is always the out and under this law makes no doubt about it that anybody who wants a divorce gets it automatically. That as this seeps into the whole aspect of marriage, even marriages that are basically strong and stable are affected when one partner can say, to use the equivalent of the old word, "I'll go to Reno", Only here its not that "I'll go to Reno" but "I'll just go down to the court house" and get the divorce".

Now what this bill means very simply, is the end of marriage as an institution. Make no doubt about it either, that this will mean at least a doubling of the divorce rate in Connecticut, which divorce rate is increased 130% in the last twelve years. This increase has been do to liberalization. A little bit here and a little bit there, just a little additional ground, just a little reduction in the length of residency.

These have been eating away and causing the increase. If you want one last example of how low a divorce rate could. How we could cut the divorce rate in Connecticut 80% now doubling it under this bill but cutting it 80%. We could adopt the bill of our sister states, 1966 not a sister state but a their law until then, which laws remained in effect for over a half a century and there have been no change in the rate of divorce in that state.

It remained the rate exactly as this country was in 1900. Out of less than 1/5 of our national divorce rate. That state, the State of New York, when that divorce law and that law accepted the one truly ground for divorce and that is the ground for adultery and under a law to this effect, we would cut our divorce rate 80%.

You'll say to me, we'll look everybody want to Mexico or Nevada. If you added the number of divorces in New York, all of the divorces in Mexico, all of the divorces in Nevada and added them all together, New York still has the lowest rate of divorce, it means that all of them are ---

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RICHARD CUNNINGHAM con't: getting divorced. Look at New York drug problem, obviously they weren't gaining anything. But look at upstate New York, because of it ironically enough, despite the drug problems of the city and the suburban area, upstate New York has some of the lowest crime rates in America and it comes directly from this. The stability of the family. The stability of the family is directly affected by your laws and divorces. I will close my testimony. If there are any questions.

REP. BINGHAM: Mr. Cunningham, isn't it a fact that the divorce rate in Connecticut is increasing without a change in the grounds for divorce?

RICHARD CUNNINGHAM: Jim, I'm glad you asked that question. Because how it operates is this. As you effect a change in the law and this is one of the problems not only in this peice of legislation but in many others. You don't just get a step function that just goes like that and that's the full effect, six months later you see the full effect of the law, instead it operates in a dynamic framework this basis relationship in the family struction where the person is divorced and this affects other families. Does this work in a relation so instead of just getting a step function, you get a gradual steady increase from a change in the law whether in this area or some other area of the law. You can't test it a brief time afterward. A matter of fact you sometimes see this brief gradual effect over a period of a half a century, from one simple change in the law.

SEN. GUIDERA: Let's get back to New York State. Prior to the change in the divorce law in the state, isn't it a fact that many Supreme Court Judges commented upon the amount of prejry that was brought into court in order to obtain a divorce, so much so that a Supreme Court Justice commented upon a divorce that he was getting tired of seeing the same girl in the same state of undress in his court room.

RICHARD CUNNINGHAM: Absolutely, but the basic effect of the law which I was pointing out was that under that law there might have been some purjury but the basic effect was the strengthen the family structure and keep the divorce rate down. If we're going to have a little bit of purjury, we have more purjury in Connecticut right now with our present grounds than in New York then, I would say that I would put up with that bit of purjury for lower divorce rate.

REP. STOLBERG: Mr. Cunningham, what state has the, ~~until~~ recently, the highest annulment rate in the United States of America?

RICHARD CUNNINGHAM: New York had the highest annulment rate but these were included in the divorce figures in the World Almanac.

REP. STOLBERG: If we eliminated a divorce statute to the State of Connecticut we wouldn't have divorces in the State of Connecticut and therefore hold down the rate. Is that not true?

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RICHARD CUNNINGHAM: It is true, however, I must say that there is a certain residual breakdown of the family and I personally believe, from my own work for the Connecticut Bar that in almost every case you actually have adultery present, either prior to a separation or after the separation, but its almost always there. You don't actually need purjury for it. It is there but the effect of this however, is a matter of deterrent and this is the spite effect that even our present system has as a matter of deterrent.

The people before they bring a divorce action they know they have to testify in court about somethings about themselves and it causes a second thought, if you will and when the only ground is adultery, it causes serious thought. He must in open court accuse someone of adultery and I think that its there, the deterrent, in the back of the mind that help\$ to keep people together.

REP. STOLBERG: Do you have statistics to show that in the State of New York under their old law, where adultery was their only grounds, even though the divorce rate was low people stayed together as a family unit?

RICHARD CUNNINGHAM: As a matter of fact if you look at the U.S. Censor figures you will find that in New York as a matter of fact in most of the Eastern states as opposed to the California and Oregon, people tend to stay together more where divorce is more difficult, where you have a lower rate of divorce than where you have divorce easier. Actually the easier the divorce break not only do you have more divorces, you have more people separating without divorces, contrary to popular sub-  
istion.

REP. STOLBERG: Mr. Chairman. Let me start first with your final statement that divorce is little easier in the mid-eastern countries, yet the divorce rate seems to be fairly low, doesn't that contridict your previous staaement?

RICHARD CUNNINGHAM: As a matter of fact Indonesia just made a big change in this. Indone~~sia~~sia found that the divorce rate wasn't very low contrary again to the idea that in the middle east divorce rates are low. They found that the divorce rate was far too high, so Indonesia turned the other way and made divorce much more difficult. Turkey did this a few years ago and made divorce mudh more difficult.

In the Middleeast actually most of the countries today its not the old Moslem way where the man can say to his wife, I divorce you, I divorce you, I divorce you and he's divorced. Its not that way any more.

REP. STOLBERG: I'm aware of that but you still haven't responded to the initial question of the low divorce rate in Middle East countries. You mentioned that you are a member of the Bar are you speaking as an individual?

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RICHARD CUNNINGHAM: Yes I am.

REP. STOLBERG: Have you ever been divorce? Are you married?

RICHARD CUNNINGHAM: No I have not. Yes I am married.

REP. STOLBERG: In terms of your statics, essentially the 80% question on California, what is the sources of that 80%.

RICHARD CUNNINGHAM: The source is, well I think its from the World Almanac. For example in 1971 there were 108,000 and some divorces and in what figures earlier 124,000 some marriages.

REP. STOLBERG: I'm not sure of the logic involved. Does that lead you to say that 80% of all California marriages ended in divorces?

RICHARD CUNNINGHAM: That's the basic point. Yes, because the reason for using this five year delay, is for example the average length of marriage prior to divorce is somewhere around five years. Now it is not necessarily an average of five years. In Soviet Russia was the first place to try no fault divorce, by the way, the average length of marriage in Leningrad was under one year there, which is why the Soviet Union today turned around shortly after that and divorce is very difficult in Russia.

REP. BINGHAM: I might ask you to turn around and recompute your figures as your figure doesn't seem to compute the 80% divorce conclusion. You might recheck that.

RICHARD CUNNINGHAM: If you have 100 marriages and five years later 80 divorces it doesn't lead to precise figures as 80%. What you do is you use a time average of your marriages over the previous ten years and you run .....if you want a more precise.

REP. STOLBERG: Actual logic actually breaks down, because in the year one you may have three marriages and by next year you may have ten times the population and that's many more divorces than marriages in the first place, so that logic really doesn't really follow, especially in a state with a high population growth like California.

RICHARD CUNNINGHAM: Well California had its max peak growth rate in recent years that its, in the 1950's and early 60's. Its rate in recent years has been well above the national average, but has not been substantial enough to invalidate an analysis of this sort.

REP. STOLBERG: I'm talking about a 70% growth rate over the last centennial census but I'm sure that there's not a significant growth rate.

RICHARD CUNNINGHAM: Less than 50%, but I'll check that figure and get back to you personally.

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REP. STOLBERG: You seem to criticize the concept that anybody that really wants divorce can get one. I'm not sure that I see anything wrong with that, can you tell me what is wrong with that?

RICHARD CUNNINGHAM: What's wrong with it is the effect not only, you see, again, getting back to the analogy, if we were living in a vacuum, then sure if somebody wants a divorce they can have it. But its not these two people who are getting a divorce, lets say, now they're both tired of each other. Its not the effect of these two people upon each other, its the effect upon the whole society and not just of the one case on the whole society but as a general pollarity upon the whole society.

REP. STOLBERG: You argue against/for adultery as the only rational for divorce. Wouldn't that be really providing an inducement for people to commit adultery in order to escape unhappy marriages?

RICHARD CUNNINGHAM: I wouldn't say so because my limited experience of that, but other practioners of whom I have spoken is its been in most cases of divorce either prior to or subsequent to separation so that its..isn't an inducement prior to getting a divorce is ridiculous.

Interestingly enough although, technically New York during this long period of time with only audltery, had more cases based on adultery than any other state, one would say that New York has more adultery than any other state. Contrary wise the state with the most adultery is probably the State of California, because where it is the only grounds for divorce, you have less of an incentive for people, for less say the 'third women' to commit adultery to try to get the man because its harder to be assured of getting him as where she knows that he can get the divorce automatically, then its more of an incentive to adultery than where adultery is the only grounds.

REP. STOLBERG: I still need a lot more information on your cause and effect relationship which I don't find convincing but I'll yeild to the Mr. Chairman.

REP. BINGHAM: Mr. Cunningham one question to make one statement. First of all you.. the most recent issue of Readers Digest, I believe it was the February issue, you wead the article on divorce statistics.

RICHARD CUNNINGHAM: I read that with much horror in me and objection to it. I think that it is lulling people who read that article into feeling that marriage is strong in this country right now, that it is safe and secure despite a high divorce rate, your ok. I take the other position, I'm afraid that article is incorrect. When you see the vey high divorce rate you are sseeing basically the end of marriage as an institut#on.

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REP. BINGHAM: If I may he was arguing that as to how these statistics were arrived at. He wasn't saying whether there were a lot of divorces or not but just quarreling with the statistics and how they were arrived at and the other question that I wanted to ask you, you say that you're an attorney and I just wondered out loud how much of your practice is involved in domestic matters.

RICHARD CUNNINGHAM: I'd say that my practice right now, none of it is. But while I was working in Bridgeport under George Faden, a paramount of it was, I'd say 10 or 15% was involved in family relations praactice.

REP. BINGHAM: Mr. Cunningham, I think that you stated that the highest rate of adultery was as least California had the highest adultery rate.

RICHARD CUNNINGHAM: That I don't have a statistic on.

REP. BINGHAM: I was just wondering who was computing it?

RICHARD CUNNINGHAM: I'll tell you Mr. Bingham why I say that and that is based on people in my generation that I have spoken to who are presently living here or have lived in California or Texas or elsewhere in the country, the feeling is that in California you find the, lets say, the loosest moral climate that as you go into a bar you are more likely to find the girl there is married than you would find around here.

REP. BINGHAM: We would find that in the land of steady habits.

RICHARD CUNNINGHAM: I'm not saying that we wouldn't find a paramount of it here. My friends that have been in both places say there is a fair amount of it here too. But its a matter of degree shall we say.

REP. FREEDMAN: I'm interested in your figures Mr. Chairman, especially your 80% figures. Frankly I'm more than a bit skeptical about 80%, especially since I have before me the Department of Health, Education and Welfare figures from the State of California as is for all states.

Let's pick a year and pick some figures for example. The national divorce rate in the year 1969 was 3.2% per thousand. California was not significantly higher than 3.2% that year it was 4.2%.

RICHARD CUNNINGHAM: Its a comparison on marriages ;and what I'm also doing is comparing it, not with marriages this year because this is a problem when you have an increase in population.

REP. FREEDMAN: You and I both know that you can do many things with figures but the fact remains that 80% of all California marriages are not ending in divorce.

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RICHARD CUNNINGHAM: Actually if we use a marriage figure before that you could have come to the conclusion that its over that.

REP. FREEDMAN: You can come to any conclusions that you want, but the fact remains that of all California marriages the rates are still close to 3.2 at this point.

RICHARD CUNNINGHAM: Excuse me that number within a year ending in divorce. Connecticut is what, 2.6, 2.7. its a rate. New York until 1966 was running 0.5 for example. Nevada, I think about half-dozen years ago was about 9.7.

REP. FREEDMAN: Lets stop you right there because I'm driving at something and I'd like you to answer it. Rather than pull figures out of the sky and tell us what percentage of marriages are based on some backlog of marriages ended in divorce, could you compare the figures in any given state, which has adopted what is now referred to a 'divorce concept without fault'. Could you compare the figures before the law went in with after the law went in? That might be a more significant comparison.

RICHARD CUNNINGHAM: Yes I could. There is only one problem with this and that is because of some of the delays involved. You would have to wait at least until two or three years afterward. I could use the first three states and make a legitimate comparison but as I testified earlier, but in these other states there is not a sufficient length of time due to the fact that that there is a delay, for example, between filing for a divorce and getting a divorce. Even then I would have to say, if anything, to be an effective study would be to underestimate the effect of this because of the... it would probably underestimate it because of the fact you're operating under dynamic framework and the increase would tend not be just a jump increase but a step function.

REP. FREEDMAN: I don't know anything about dynamic frameworks but I do know that if, infact, you are having that kind of a time lage because of the difficulties involved, its not so easy to get a quickie divorce as you claim it is.

RICHARD CUNNINGHAM: Excuse me, its not that its the time lag. The figures that I was giving you on divorce were not 1972 figures. Only 1971 figures.

REP. FREEDMAN: You just said that it takes time to file a complaint before a divorce goes through.

RICHARD CUNNINGHAM: This is part of it but there is also a delay between the time you would get even the results of it from the state reporting in such a form that you could use it for a complete analysis.

REP. FREEDMAN: Another question, you made a statement before, which I find that I have to question, which is that keeping the divorce rate down strengthens the marriage?

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REP. FREEDMAN con't: I find that a very questionable statement, especially since in my own legal practice I have seen some of the worst things done to children and frankly its happened because of very unhappy marriages and to say the marriage will strengthen if the people stay together, its a grosse overstatement of facts.

RICHARD CUNNINGHAM: I would say that in some individual cases it isn't. But as a generality I would say yes and it has an effect on the institution. Again if these are going to breakdown you're going to have these problems anyway. Then it would be a justification for legislation of this sort. But instead what the effect is is the effect on other marriages and on marriages as an institution in general. The effect for example, if we look at a long term delay of a divorce rate of a state and the crime rate some years hence, you'll see a direct relationship between the divorce rate and the crime rate because the likelihood of maladjustment is greater where you have easier divorce and where divorce is difficult.

REP. FREEDMAN: I would suggest to you sir, that that could be a double edge sword. I have seen many products of many unhappy marriages that have contributed to the crime rate.

RICHARD CUNNINGHAM: Unquestionably. I'm talking about the liklihood and if the likelihood is such. If you look at it statistically you come to the conclusion by increasing the divorce rate you increase the crime rate some years hence. Again I can't look at the crime rate next year and say that this increase in the divorce rate, if they are obtained instantaneously increased the crime rate because the delays for example in a murder-rape is a bymotive function with a major part of it having a 15 to 18 year delay in the change of divorce rate to change in crime rate. So with substantial delays of this sort you cannot make an immediate analysis of the dramatic effect. I will say however, that the 1971 figures did indicate an increase in California. This was subsequent to the passage of the no fault divorce bill there.

REP. STOLBERG: Mr. Cunningham, I'm a little agast of your use of figures and your logical jumps and your data derived from conversation with people who observed other people in California. I really am very concerned about for example the cause and effect relationship that you did use from increase rates in homicide and other major crimes and increased divorced rates. There are probably thousands upon thousands of other rates which have increased over the last decade also, I could take any one and blame it on the increase on any other; it just doesn't really follow.

RICHARD CUNNINGHAM: Excuse me, I'll be glad to show you more on this study another time. I don't believe that it pertains to this particular question as it does to the whole question of crime and that I would be glad to go over with you very much.

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REP. STOLBERG: I'd be interested in that.

REP. BINGHAM: Thank you Mr. Cunningham. Mr. Harry S. Gaucher. Where is he?

MR. GAUCHER: Gentlemen, I'm Harry Gaucher of the Connecticut Bar Association and I'm here to address you in regard to some of the bills that have been proposed for your consideration.

The first one that I am going to address myself to is on page two of the list that I have and its House Bill #8269, AN ACT CREATING A COMMISSION TO STUDY AND DRAFT LEGISLATION FOR THE REORGANIZATION AND UNIFICATION OF THE COURT.

First I would indicate to you that as regards to the Board of Governors of the Connecticut Bar Association, it has taken a position in favor of studies being made. I would, however, add this limitation to its approval and that is as regards to the language at its present bill as it has been proposed the board would not be in favor of so narrow a study as the language of this bills seem to dictate and that is in regard to Section 2, which states that the "State Commission would study and prepare legislation for reorganization and unification of a state court system". The position of the bar would be that this would be part of the study being made as to whether or not there ought to be unification in any event, there ought to be a study made as to the overall consideration that would go into. The thought of the bar is that this study ought to be broad basis study. It should not be limited to bringing about, in fact, unification, this should be part of the consideration of the study whether or not unification should be the end result. Although the bar is in favor of the matters that are encompassed in Senate Bill 882, concerning marriage selection in all aspects of organization and composition of the judicial system. This should certainly be part of the study and I think that if you recall the address on the part of Chief Justice Howes back on January 24, he indicated that there should be no rush to effect any change in the basic organization of our court structure without the fullest examination both of its consequences and of constitutional requirements. So that gentlemen is briefly we are in favor of a study but it should be on a broad basis.

REP. BINGHAM: Mr. Gaucher, I take it you recommend that we the Commission, if it is created, would consider all those recommendations recommended by the Connecticut Citizens and Judicial Modernization, is that correct?

MR. GAUCHER: That is correct Representative Bingham.

In effect then in section 2, Reorganization and Unification, I believe our position would be we'd like to see the word "and unification," eliminated, Reorganization as the Commission May Deem Advisable, or some such language.

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REP. BINGHAM: Thank you Mr. Tilson. Barbara Lifton.

BARBARA LIFTON: I'm Barbara Lifton of the Connecticut Womens Political Caucus. I'm here today as you know that I probably cannot comment offically on the 8235, since we just obtained a copy this morning and we have not had an opportunity to discuss it as.. the steering committee of the caucus has not seen the bill and I have not had an opportunity to discuss it with them. However, I have within the last hour and a half.

The National Womens Political Caucus and the last year the New York Womens Political Caucus was deeply involved in petitioning the legislature in changing the divorce laws in the State of New York and the Connecticut Womens Political Caucus has also been very concerned about the divorce law in the State of Connecticut from many points of view.

We are concerned of course with the fourth provision of the law, which we consider to be very rigid and but we are especially concerned with some other problem involving the dissolution of marriages which only recently have become to light in the State of Connecticut.

Unfortunately at this point there is very little available statistics. whether or not the alimony payments made to women and children in divorce actions have really been paid and what the rate of non-compliance is. Some investigations have been made recently by Mrs. Spaulding of Greenwich and I think she's been in communication with the gentlemen, Mr. Schoonmaker' who wrote the bill, which is indicated that the rate of non-compliance in the state is very high.

I feel from just giving my opinon of the bill as it stands now that the provisions and terms of the division of property, in terms of division of the alimony and children, in terms of the procedures of conciliation and petitioning I feel are very good in the bill as it is written now. I am especially happy about a provision that would provide security in the event of non-compliance of child support and alimony, in other words there would be some sort of a security bond or property which would be held by the court in case of non-compliance in child support and alimony.

In terms of the division of property as I started to say before. The problems involving child support and alimony and non-compliance do not come under this bill of course, and probably would involve some sort of rewritting or modification of the uniform reciprocal law, the nationwide law and we of course on the national level are trying to get the American Bar Association to consider the modification of the reciprocal support act.

I feel however, that I would like to study a little bit longer. Some of the conditions under which the courts would assign to either the husband or the wives all or part of thaa estate of

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BARBARA LIFTON con't: the other and condition under which determination of who, which party shall be responsible for child custody and child support are made.

I think the list of conditions as it stands now is good but I feel that it does not, in the wording as it reads now, take into adequate consideration the recognition of a women physical, social and psychological, mental contributions to a marriage in addition to her financial contributions to her marriage. As you know in most marriages where, of course a women has stayed home, I'm talking now not about a marriage that has lasted one or two years but a marriage that has lasted a certain basic duration, where a woman may not have been able because of her circumstances to make any financial contributions to marriage, either because she did work during the marriage or because she perhaps did not have an estate which became the property of the marriage shared by the couple in marriage, so that when the courts consider as the bill says, the contribution of each party in acquisition, preservation and appreciation of their respective estate, it should have in its mind that the contribution of a wife in a marriage or possibly in some cases the husband the marriage, of course, as Mr. Schoonmaker has indicated, there has been some cases where either because of some physical reason, reason of health or reason of education, certain marriages wives have supported husbands,

So that in those cases also, other contributions, other than financial considerations, other than financial ones should be considered by the court when they are awarding, fixing the nature and value of the property in which to be divided and when they are dividing such property.

I feel that it is also important in cases of child custody and maintenance to consider such factors. I would also like the Judiciary Committee to consider and I throw this out for you to see whether you'd like to think this over, I don't know if this comes under your jurisdiction. There are many, many marriages that are dissolved and will be dissolved with this act if it is passed in which there is very little property to be divided. I'm talking now of non-middle class marriages where there might not be savings, where there might not be stock, where there might not be a home owned, etcetra, etcetra. In which most of the support of the family is derived from salary of either the husband or the wife and I think that once statistics are collected accurately in this state it would probably be found that most of these non-compling, child-support payments in this state, which I don't have to describe the kind of hardship which is experienced by women who have custody of minor children and through its child-support and alimony are in arrears. Many of whom had to go on public welfare.

In those cases where there is no property, so there is really no basis, financial basis to the security so that a women

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BARBARA LIFTON con't: can build a new life. We feel that there should be some sort of intervention by the courts or by the state to guarantee, at least for certain period of time, that those child-support and alimony payments will come in.

What the National Womens Political Caucus and the New York Caucus has suggested is, I think an excellent suggestion, is some sort of a bond system. Its to be introduced at the time of awardance of child-support in divorce cases. Security of property is fine, keeping it in trust for the payment of alimony and child-sipport when there is property to be kept in trust. I'm concerned with non-middle class marriages, where there is no property, where there are no assets, except the husband's salary and in which in many times it is a hardship for a man to pay alimony and child-support, especially if he remarries or as in the cases of, as some of the preliminary statistics indicated in Connecticut, two out of three child support cases are non-complied with because the husband is the less estate or the husband refuses to pay child-support and alimony, that the women has some sort of place to go to speak. But obviously, even if a women is able to..can afford a lawyer and go into court, start a suit for collection of child-support, if she can afford all of that, we have discovered that in one out of ~~two~~ of those cases on the average are collections ever being made and in most of those cases it may be very well that it is difficult or impossible because of the husbands situation to make adequate payments of child-support.

We feel that some investigation should be made of the ... possibly establishing another system, like a bond system or I don't know what, to see if we can maybe award for these women and children and/or their husbands in some cases a little bit higher measure of security than they have now. In general in terms of the bill as it is written now I would say that I would personally urge the committee to report it out and in terms of the past history of divorce proceedings in the State of Connecticut. I feel that a bill like this is necessary and I think that I can adqutely speak for most of the women that I know in the caucus in saying that most of the positions in this bill would be very very acceptable to them and I urge that you report the bill out. Thank you.

SEN. SCALO: Would it be your personal position or position of your caucus that in a situation where a divorce was had and the custody of the children were awarded to the husband, would you be in favor of having the wife pay support?

BARBARA LIFTON: Well I think that that should be determined as it states in the bill on the financial consideration involved. In other words the court determines if the wife is capable of awarding child-support. Well lets say that the husband is not capable but is awarded custody, so that I think it should be reciprocal. Absolutely, however, in case where the custody is awarded to husband for other reasons, other than financial

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BARBARA LIFTON con't: consideration, let's say because the court considers the husband a better parent and if the husband is equally able to maintain a child or children, then I think that perhaps, and then if they find that the wife is also able to contribute something, she's been working or she has a career and she has assets and it is necessary to supplement whoever or whatever the income that the husband has, then certainly she should be asked to contribute to the support of the children.

SEN. SCALO: My question is to the fundamental issue, if the husband has custody of the child do you think that the wife has a responsibility to go out and get a job in order to help support her own children as it might be under prior law as to the husband?

BARBARA LIFTON: Well I, that's a difficult question for me to answer. You see you have a problem here. Let us say that, you're talking now about a marriage of some years duration and in which time the wife stayed home and took care of the children, right and the husband supported the family. Number one that wife may not even have the ability or the training to obtain a job which would enable her to support herself and/or the children, ok? If the wife is able, as I said before, to obtain employment which would enable her to support herself, and this is reciprocal. If the husband for instance in a divorce case has a job and finds it very difficult to maintain a separate household and is awarded custody and the wife is capable of working and if the husband finds it difficult to, in my opinion, finds it difficult to pay for his household and the support of the children, then certainly a wife should make any effort she can to contribute to the support of those children, you know. However, whether or not you can make it, in other words you're saying whether or not the court should direct the wife to go out and get a job to help support if the husband cannot support the children?

SEN. SCALO: Right now the husband can be thrown in jail for non-support because the court says that he has to provide so much for the support of his children. Don't you think that it should also apply to a woman if she doesn't go out and provide for the support of her own children when the husband is actually clothing and feeding them, that she should also be made to abide by the same laws and she should also be put into jail if she does not abide by them? Even if it's five dollars a week.

BARBARA LIFTON: First of all I don't think anyone should be put in jail, ok, that's number one, secondly I think that you have a point frankly, now, certainly the women's movement has been in the forefront of insisting upon equity in terms of alimony and divorce, there is no doubt about that. All I'm saying is that the judgment of the court be fair to both parties, both the husband and the wife and I think we should eliminate all punitive action involving divorce and/or child-support. There has to be another way for providing for the minor children in a divorce action other than the system that we have now. And

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BARBARA LIFTON: what I'm asking is not only this committee but the legal profession in general. Because as I said before I don't think that the statistics concerning the problems involving the child-support are known or as widely known as they should be and I think that they should be fair, they should be equitable and they should provide for children, for minor children so that we do not have some of the really, we have some financial and psychological disasters on our hands in this state and in other states of dimension, which are the results of either divorce action or even deaths in the family and something should be done to provide for that. Any other questions? Thank you very much.

REP. BINGHAM: Thank you very much Miss Lifton. Thomas E. White.

MR. WHITE: Mr. Chairman and gentlemen of this committee, my name is Thomas E. White, I am a member of the Executive Committee Family Law Section of the Connecticut Bar Association.

I rise to speak in support of Bill #8235, which is the bill that Miss Lifton has been discussing. I would like to take a moment if I may to express my thanks to her for her articulate support of this bill and to answer briefly two of the questions that she raised.

One of questions that she raised was, 'whether or not some of the language in Section 17 of the Bill dealing with the factors should be taken into consideration in the event of an alimony award?' needed changing. In my view changes along the lines she suggested would not be desirable for this reason. I think if you start fooling around with the language of that Section 17, you're going to back out of the frying into the fire and you're going to start getting into intangible questions of how good another was she? What efforts did she make towards the religious education of the Children? You're going to be backing into the false concept.

In my view the language in Section 17 as it presently reads is sufficiently broad enough for the court to take into consideration all relevant factors necessary to make a fair discrimination concerning alimony.

The second point that I would like to turn to is her suggestion that some security should be given in some cases in order to help deal with the problem caused by fathers; perhaps in the future by mothers, who skip the state and refuse to comply with their obligations so far as child-support is concerned. In our deliberation concerning this document we did take that in to consideration and in Section 24 at the bottom line you will find a provision that a court made direct security to be given for child-support orders. So that again I think that her concern here is very well taken. I think, the bill as drafted does meet that concern.

Now I would like to comment very briefly, I think Sam Schoonmaker earlier this morning laid it out the history of the bill

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MR. WHITE: con't: and the major provisions of it with such claiety that there is nothing that I could add at this point, however, in view of the earlier testimony, which you heard, I would like to make it as clear as I can do that the purpose of the Family Law Committee, which started work on this bill in 1967 and the subsequent work of the Family Law Section which picked up the ball when the committee became that section, was not to increase the number of divorces in this state, it was not to ~~increase~~ the crime rate, it was not to break up a lot of happy homes on the contrary. The people who are responsible for this particular language before you are men whose primary concern has been to insure that when a marriage goes sour it may be dissolved with as little pain as possible.

Divorce is never an easy process. This, I should add to that we're not working merely with lawyers, we had the expert advice and counsel of Dr. J. Katz a practising psychologist who teaches both at the law school and the medical school who is responsible for some of the major provisions of this bill.

I should point out that the Family Law Section is not a one issue section. The Divorce Reform Bill is not the only legislation we have ever considered. We are now giving intensive study to proposed reform of the Connecticut marriage laws. Again with the same end in view, namely because we are in favor of men and women being able to enjoy a prominent and lasting relationship in marriage not because we want to see homes split up or children injured.

Now I want to make one more point in respect to this bill. Earlier this morning I heard the word purjury thrown around a couple of times. I simply want to say that my own experience in presenting divorce cases in Connecticut under existing law and in watching other lawyers present them under existing laws, has been this; I have seen one case when I suspected that the lawyer presented the case was putting on purjury testimony. Now I'm just a simply country lawyer, I practice up in the Northwest part of the state. Some of the big cities things may be a little bit tougher but when people state talking about lawyers inducing their clients to commit purjury I don't like it, I don't think its true. I don't believe that the bar of this state this would be true. That was my last point. May I ammend that and make that my next to last point.

Mentioned was made earlier about let's have adultery be the sole grounds. You know, if you're really talking about trying to make peoples lives better and to make it possible for little children to grow up with the least amount of emotional harm. Adultery is not the deal. No. There are lots and lots of marriages where there is adultery and no divorce. There is lots and lots of divorce cases where what the fighting tis all about is not adultery but about something else. To my way of thinking adultery should be low on the list of grounds

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THOMAS WHITE con't: for divorce, but I'm sort of wandering a little bit. When I signed up as a speaker, I signed up to speak not only to this bill as I concluded my remarks on that but also to bill #8298. This bill relates to the age of support of children. This bill is the logical extension of the whole group of legislation tending toward giving children majority at age 18. The effect of it is to clarify a position which is not clear under existing law and which I understand has been interpreted in different judges to the extent that it is illogical, I commend it. To the extent that it will avoid confusion in the judicial area, I commend it. I'm not wise enough to speak on the question of the ultimate value judgment of whether or not support for children passed 18 should be continued in some cases or whether the court should be given discretion in some cases so I will say nothing on that point.

Now those are the only bills that I signed up to speak to. I have been asked on behalf of the Connecticut Bar Association to speak very briefly about one other bill, may I do so?

That bill is 8159, AN ACT CONCERNING THE EXPENSES OF THE STATE'S ATTORNEY. I have been asked to say that the Board of Governors of the Connecticut Bar Association is in favor of that bill. I'm sorry I misled the committee, the other bill that I signed up to speak on is not the eighteen year old bill, it was bill #1615, DEALING WITH THE AUTHORITY OF THE COURT TO AWARD A DIVORCE OR LEGAL SEPARATION. This bill was co-sponsored by Representative Nevas. The effect of this bill as I read it would be to avoid the Mexican standoff situation. In other words under the present law husband and wife decide that they want a divorce and can't agree they fight it out in the court room and the judge finds that they both guilty of grounds sufficient to support a divorce says that you have unclean hands you don't get any divorce and the thrust of this bill as I read it is to put an end to that situation as such it would represent an improvement over existing law, however if the major divorce reform bill should be adopted as I hope that it will be, then this bill would not become necessary. Thank you very much.

REP. BINGHAM: Thank you Mr. White. Representative Healy.

REP. HEALY: I'd appreciate it if you address yourself to the constitutional question involved in this eighteen year old thing. Here you have a decree of a court and this purports to permit the legislature to knock out a court decree, which is already in existence as to which is their invested rights. Now how can we do it?

MR. WHITE: Well, yeah. You see most of the decrees of which I am familiar are relatively simple and they say the defendant is ordered to pay towards the support of the child the sum of X dollars per week. That's all it says. Now we're assuming that at the time the order was entered the age of majority was 21. After the entry of this simple order, which I think does

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REP. HEALEY: John Del Buono.

MR. REISMAN: May I go on secondly with

REP. HEALEY: I'm sorry, Sir, I didn't mean to cut you off, I didn't realize you weren't through.

MR. REISMAN: I know it was a long written statement, but the next matter to which I'd like to address myself is something concerning House Bill 8235 which is the proposed divorce reform legislation. I believe this act, or one very similar, was proposed two years ago, it never got to the floor for vote and we are hoping that we're in a different position this year. Many things have gone on over this two-year period I would like to point out some of these things to the Committee.

The following organizations have formally endorsed this Bill: (Incidentally, I'm speaking for the Family Law Section of the Connecticut Bar Association of which I'm a member and have been for a number of years now.)

REP. HEALEY: I think it would be worthwhile for the people in the audience if they realize what you're talking about is the so-called 'No Fault Divorce Bill.'

MR. REISMAN: Yes, and they cringe a little at the label of 'no fault' but that's what it has been labeled. These organizations have endorsed the Bill. I think all of them have also endorsed the previous Bill that was submitted two years ago with the exception of the first one, the Connecticut Bar Association has now endorsed this Bill, the Greater Hartford Council of Churches, the Connecticut JCs, Family Service Society of Hartford, Northern Connecticut Chapter of National Association of Social Workers, The Stamford Council of the National Council of Jewish Women, Legal Services Project Directors Council, Service Bureau of Hartford, the Connecticut Council of Child Psychiatrists, Connecticut Women's Political Caucus. I believe there are others but I don't have an exhausted list.

Some of the other factors which I think are of great moment to this Committee and draw particular emphasis to the great need to have reforms such as this. There are a great number of states that have already adopted similar legislation and Connecticut doesn't have to be one of those merely to follow suit, but I think the fact is that there is great need for these things and I would like to point out that the following jurisdictions have enacted so-called 'no fault' divorce laws and those include Colorado, Florida, Kentucky, Nebraska, California, No. Dakota, Oregon, Texas; Iowa and Michigan

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allow dissolution of marriage whether there has been a breakdown, we can call that a no fault. There are other jurisdictions which have incompatibility which really is not grounds as we know it here in Connecticut, its an entirely different thing. There are four states: Alabama, Kansas, New Mexico and Oklahoma; there are sixteen other jurisdictions, one of which is the District of Columbia that has varying lengths of time as a ground for divorce that might be similar to our desertion situation, although living apart is not really desertion as we know it. There are sixteen of those jurisdictions, so there are in excess of thirty jurisdictions that have already done something about this situation.

The Connecticut Bar Association was poled over these past few months and overwhelmingly, maybe to some surprise, lawyers favored this legislation. The Board of Governors of the State Bar Association is in favor of this legislation; the legislation itself is extremely comprehensive, I know you gentlemen must be very familiar with it. If there are any particular questions which you may have, I'd be very happy to try and fill any that you may put to me.

The principal changes here, eliminate the grounds for divorce, eliminate the adversary nature of the proceedings, allow particular emphasis to be place on what is happening to children, what's happening to the individuals; if you eliminate as much of the tensions and unpleasantry that go on in this situation and allow a positive effort to be made toward alleviating as much of the tensions and emotions as possible, it will go a long way in resolving very real practical social problem that we're facing on a day-to-day basis. I've got statistics after statistics here that would indicate frightening transient in marital difficulty in the breakdowns in causes of emotional problems in children where psychiatrists are involved, social workers are involved. Its a frightening thing. In effect, as I understand it and if my research is accurate, the present divorce system in Connecticut is in excess of 100 years old..

There has been some substantial changes, some procedural changes over the last few years. Some of the portions of the proposal of two years ago have been called out and passed during the past two years, but that's a piecemeal approach. We're very thankful to get as much as we can, all of us that are working in the area, but the overall picture is something that really needs changing desperately and this is not something that's being profounded for lawyers, this is not something that is being profounded for the lawyer's pocketbook, by any stretch of the imagination. Most people are very apprehensive and fearful that this is just to the contrary. We happen to believe that this is not really the point at all.

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There was a great fuss over the no fault insurance legislation and there still is and people are still wrestling over the concepts. Well, we've tackled this one head-on and we're agitating it and the entire Bar Association is now behind it and the Board of Governors is supporting it and we just feel that its something that society needs as a fresh breath of fresh air, if you will, and a new approach toward the whole handling of this situation, a social approach to it rather than a technical puritanical approach as we've had over the past years.

REP. HEALEY: Thank you very much. Mr. Del Buono.

MR. DEL BUONO: Mr. Chairman, Ladies and Gentlemen of the Committee, Ladies and Gentlemen in the audience, I'm John Del Buono, I'm a practicing lawyer in Waterbury. I'm a citizen, talking to you as an individual citizen, I don't represent any anybody but my own views.

I have a number of items I'd like to talk about. I'll try to be concise, I realize your time is valuable, and I'll be sensible about it. Since these are short items, the easiest one I'd like to talk about is the signpost on the green. For 18 years now, probate court requires that I put a notice in the newspaper, notice to creditors and then I put a notice on the signpost on the green. I've been doing this for 18 years on all of my probates in all of my estates, and I haven't seen any of the 110,000 residents of our town go and look at the notices on the signpost on the green.

REP. HEALEY: Johnny, . . . .? . . . . when every trolley car in town went by that signpost?

MR. DEL BUONO: No, I'm not. So, I'd like to get rid of that, you know, kind of an appendix that's unnecessary now. Another small item I'd like to bring up. I'd like to raise the jurisdiction of the court of common pleas to 20,000, that would bring it up to the insurance policy automobile limit. It might help out in Superior Court. The court of common pleas has a cable of judges and now we have a concurring jury, so I think it might help the Superior Court if we raised the limits from 15 to 20; now that isn't major overhaul, but it certainly would help, and I'm just hoping primary in Waterbury . . . .practice here and we never did issue a . . . . Superior Court. Now, so many other things I'd like to talk about.

I oppose the no fault divorce concept. Its a new idea, it started in England three or four years ago and California picked it up. As a matter of fact, I don't like this whole

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concept. You know, for what, a couple of centuries now, just about, in our State it has always been the policy that you fix responsibility. You know what your responsibilities and what everybody else's are, and you know the one to blame is going stand up for fall. No smearing, no confusion, nice clean concepts. Now, we got away from it last year on automobile, so what happens is that everybody innocent, as well as guilty, are going to pay for the wrongdoer's mistakes. Now, we're trying to bring you forward with this no fault divorce contract.

Now, its hailed as being remedial and wonderful and everything good and kind. What this concept of no fault divorce reminds me of is dessert. Just as the doctors have to deal with cancer in a patient, in a human being, and the frustrations they must feel on how do you remove the cancer from the patient and keep the human being alive, we lawyers are faced with the same frustration when we deal with a marriage. Now, I grant you things are in a horrible state of affairs when you walk in the door one of them says I want a divorce. Now, the doctors don't have a solution as to what to do with a cancer patient, they don't have a cure for it, they're working on it, they're working on it, they hope, they hope saving one out of three. All right. We lawyers I think need something better. We people of the State of Connecticut need something better than what we have.

Now, there is a concept that I'm familiar with in California. They call it a reconciliation court. What that means, you know its an ..... system that we have, you know its 'Joe Doe' against Jane Doe - right off the bat you're antagonistic, and its hard to get to talk. If there's anything you say, you may lose your grounds and all this stuff. There's hostility. Now, out there . . . being of the concept that the parties can stipulate what's wrong. Here the two agree. This is wrong. He's running around with this girl - he agrees he's running with that girl; now she, its up to her, is he going to stop running around; so he agrees that he's been running around, he signs it and it becomes a court order. Now, if he runs around with a girl, he can go to jail for contempt. My understanding is that it has worked successfully, so I propose it as legislation to give us lawyers, 3,000 or 5,000 of us in the State, something to work with to try to phase the marriages other than the present system.

The system we have, as you all know, the lawyers already know for sure, we have a .... prevention officer, but he's ineffectual if one side says 'no, I won't go to the meeting' you know. How you going to have a reconciliation with only one party there. Other things that I think we ought to be doing.

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I get this phone call, the girl is 14, she's pregnant, she's 15, she's 16, she's pregnant. What are you going to do? What do you propose? We had a Connecticut case way back which said once you marry into status, you're locked into it. The case was a situation where the parties agreed it was a shotgun wedding, they agreed to get married, and promised that in six weeks they would go out and get a quickie divorce in Nevada, some place, and then she reneged on the deal, he sued her on fraudulent contract, the court threw it out. At the moment he married her he changed her whole status, and that's it, you're locked in.

Here in Connecticut we have a situation that is unique in the nation - we .....legal separation doctrine, you know, what that is we're the only ones in the nation where either party to a legal separation all the same ground as divorce but at the end of a legal separation you're still married - its the old idea that divorce ..... from bed and board, you're still married but you don't live together, you don't sleep together.

We came in with this concept in Connecticut, we're the only ones in the nation where either side can convert it into a divorce. Why can't we do the same thing at the backhand of the marriage on the way out, when they can't talk to each other, they can't speak and they've got kids. Why not at the beginning. Why not give people an alternative, we have to create this, maybe we'd be the first ones in the whole nation but so we're first in the nation.

In the shotgun wedding situation, let them just get married and leave it there, not consummate it any further. She's 14, she's 15, they probably never intended to get married, and then she's caught and there's a pregnancy. Get the child illegitimate, don't put her under pressures where she's unloved, the guy doesn't want to take care of the kid, the parents don't get a hoot, she might as well get an abortion, and every other blooming thing that's going to run through her mind. Let her get legitimately married, then let them stay in separate homes, and let them think as two single people, in a sense, and see if it is love or mutual selfishness that keep them together. If they are in love, you're not going to stop them and marriage will succeed. If it's mutual selfishness, they never will get together, if they do get together, do consummate it, it isn't going to last and you may have another child or two before the divorce.

We need to do something. The Catholic Church has come out that under 19, you've got to be screened before you can get married in church. I don't think, all we have is a five-day waiting period, and a blood test, and if you're over 21 your parental consent, under 18 now, your parental consent, etc. There's just a few rudiments if you want to get married in the State. There's no testing. You know, if you want to be

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a lawyer, you've got to go to law school; if you want to be a priest, you've got to go to a seminary; but if you want to get married, all you've got to do is have five bucks and go down and marry the girl and you can get into this thing whether you're ready for it or not - there's no preparation. We don't do anything. I don't think any of the states do anything, and then we all scream and yell 'gee, one of three is in divorce court, one out of four, whatever the case is, the statistics are very high. Well, what is being done?

Take away the chaperone system, we've allowed kids to marry and there's no father or mother who wants the kids, there's nobody in the back seat of the car that's going around, there's no bearing out on the date to double check to make everything honest. What do we do? So, we've got this situation. We're treating kids like their 40 years old when they're 18, 19 - they can make a decision. Some kind of legislation like that I think would be in order.

I'd like to get on another subject. If you want to ask me questions on this, why go ahead. I'll be glad to entertain them. Go ahead. I may not give you good advice, but my best advice is when I'm charging. I give bad advice when I don't charge. Go ahead.

Unidentified:

No charge. Perhaps you can answer my question. You suggested an alternative in no fault divorce, a trial-type of marriage, and you said try having the youngsters married in name only and see if they can perhaps get together and make a go of marriage. What is your phase 2, if they can't, what you're suggesting for that is that you do not believe in no fault divorce.

MR. DEL BUONO: Well, these concepts are two different concepts. My answer to the alternative to the no fault divorce is propose that we leave the system alone that we have. You can get a divorce in this State rather easily. There are several grounds, you can drive a truck for accountable cruelty, and as a practical matter, most of them are uncontested, about 90 to 95 percent are uncontested. So, if you want secrecy under the new statute that was passed here only a few months ago, you can go into Chambers, you can have your secrecy if you want it. O.K. I see nothing wrong with a person's spouse saying that this is what you did wrong. What is the alternative? You married somebody for life, and then on a whim, a caprice, they cool off, whatever the reason is, you bind yourself for all of your life with this person, you strip yourself psychologically and emotionally, spiritually, every conceivable way there is. Especially if you have a religious conviction, you're only going to get married once and never again when that person is alive. That person just walks out

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on the deal for no reason, no fault, no explanation, good-by honey I just don't like you anymore. I don't see it, and I don't see that 3,000,000 people in the State ought to say yes, we'll do it - so, leave the present system as it is, but perfected. Reconciliation court idea that I'm talking about would help. I'm not saying its a panacea, I don't even know how much of a dent it would make, but I think its better if we don't have anything. I don't know if the Judiciary could do this on their own power, certainly I think the Legislature could pass a law. Now on this idea of a shotgun wedding, what would you do afterward? Well, the kid would be legitimate, wouldn't he? At least the parent would be fixed, the support rights would be fixed. There would have to be something to dissolve it, or we get into the situation is it a status or isn't it a status? We know it isn't a contract where the parties can usually agree to the terms to pay monetary damages.

Its a status. But, if its a status. . . .that we have not applied ten or eleven years ago - legal separation, might it not be best for all to taper the beginning of it where we can get into it without getting all the way in if there's a special problem. Frankly, I don't know, I suppose they can divorce so long as they wouldn't consummate the marriage. Believe you me, its troublesome. If it was easy it would be over the fifty states, we wouldn't be talking about it. I think something's got to be done, we've just ignored it now. So they either abort the kid or they have the kid illegitimately they try to make a run of the marriage, you never know when it cramps out.

Some make out, it depends on whether they love each other when they did what they did. Are there any other questions, I hope I've answered you. Maybe I have.

Unidentified: As you said, its not an easy answer and that's the problem at hand. You have youngsters of 14, 15 and 16, regardless of their religious beliefs and their concern at the time, they still get into difficulty, and to saddle a young couple with marriage at this age and the responsibility of a baby when they still are young. It's still a problem. I'm not a proponent of no fault divorce and I'm not against it. I'm not sure. I think its a thing that really has to be thought about a good deal.

MR. DEL BUONO: I think its premature for our State to adopt it. Its so recent in California, its only a matter of a few years, there hasn't been any long experience with it.

REP. HEALEY: We do have a file available to the Committee on the California Reconciliation Court, Mr. Del Buono.

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MR. DEL BUONO: Oh, great, great. I think that's great. I'd strongly advocate that, I don't see how we can lose. In my recollection, its like about 95% effective. The statistics are overwhelming. Of course, you can see why. If there's mutual consent to the reconciliation and the state is ....., you've got a pretty good chance.

Now, to get on with some of the other things. I'm in favor of a constitutional amendment to overrule the United States Supreme Court decision on the abortion business. A shorter way to handle it which I doubt/would be illegal, would be to have a statute defining that an unborn fetus is a person in the eyes of the laws of our state from the moment of conception on. I don't know if it would stick or not. The other thing is probably giving some legal rights to the father of the child so that he could bring some sort of an injunction proceeding if he doesn't like it. I don't know, the whole thing runs right counter

REP. HEALEY: Are you in favor of the alternative of mandate part t force the mother to have an abortion?

MR. DEL BUONO: No. I don't like abortions. Amen. There's no question about that. Now here's something that I've run across, blood tests on this Section 52184. Situation: Wife says the husband is the father; husband says no I'm not the father, I didn't sleep with you when you conceived; wife says yes you did. Blood testing is taken under 52-184. Expert opinion under oath - tests three samples - swears under oath that father, that husband is not the father of that child. This actual fact situation happened in town. There is no statute, no Supreme Court decision up until this court case as to what is the effect, how much weight is to be put on the expert opinion.

There's two views - there's the California view in the famous Charlie Chaplin case back in 1945 that says that an expert opinion is an expert opinion is an expert of opinion its just an opinion. The judge can accept it, reject it just like he can anybody else's opinion. No more heavier weight than that. That's one view.

The other view that runs smack head-on and which I favor is that once that test is taken it is presumed to be conclusive, unless you come up with something that was wrong with the testing. This is the New York view, this is the view that the overwhelming authority that I respect will take. As you know, when the test comes out, the wife has the right to run a counter test, if she wants. The court can order another test if it wants, and if those tests don't line up, you know, one expert after another, after another, same blood being tested. Each time the father is excluded, it has some measure of

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security there. I favor a presumption, a conclusive presumption that once the medical evidence is in, the expert testimony is in that it is a conclusive proof that that father is excluded from being the father of that child. There's no Supreme Court decision on this, there's no state statute on it, there's a uniform blood grouping test statute and they have in this kind of a presumption that's its conclusive. Now, there's one other thing, I could talk on a lot of fields, but one last thing - there is a frustration of a plaintiff lawyer trying to handle a malpractice case in this state, both against doctors and against hospitals.

The reason, there's one key reason, there's a key statute that stands out on this, i.e., the State Commissioner of Health, Dr. Foote, has the right to investigate and then he has a right to remain silent to hold private his investigation. He's the key man in this situation because he likes his doctors one way or another through the Medical Examining Board, and he likes his hospitals. He can conduct an investigation and he does but then you get this beautiful letter, you know, sorry your client died and you think there's was a malpractice committed, but our investigation is sacred and private and we're not going to turn it out. Now, what do you do? What do you do in that kind of a situation? The doctor isn't going to help you, the Medical Association isn't going to help you. The Bar isn't going to help you, local State Bar isn't going to help you, local Medical Association isn't going to help you, local state association won't help you, State Commissioner of Health won't help you, and then you take a look at the law.

The law says you gotta get an expert, another doctor, or an administrator whose running a hospital in a similar size town and situation to the one your case is in to tell you what kind of practice is there. So, you have to go through somebody in the medical society to get your case into court, but even before you get into court to know whether you honestly have a case, it is very frustrating. You know, they're not too familiar with these cases like you sue somebody who had an automobile accident, but when you go to a doctor you're going to ruin that man's reputation. Its far more than just one case, you can ruin the man with the reputation 'cause people will stay way from him if he thinks he's killed, and yet you're faced with a social obligation, you've got a client who in truth and justice should have justice, but if you can't investigate the determining factors to come to a conclusion that perhaps there hasn't been a malpractice case you have to suppress it.

Now, the individual, the 3,000,000 of us around the state, we're pretty much at the present time at complete mercy of the hospital, the doctor and the health authorities of the

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state, and through their goodness if they come forward, fine. We're not in a position to nose around in this area, and I think in social justice the people who are being treated in very high price circumstances, you know you can pay \$1,800 not have very confident medical attention, and I'm talking from cases in my mind; so, something should be done in our laws to balance more in favor of the patient and away from the doctors and the medical society. I'll answer any questions on things like that. Unless I've done such an excellent job there are no uestions.

REP. HEALEY: You have been quite clear.

MR. DEL BUONO: Thank you.

REP. HEALEY: Thank you very much. Michael Suchar.

MR. SUCHAR: My name is Michael Suchar. I'm from Southington, Connecticut, and I'm a private citizen. I'm glad the gentleman, the lawyer, talked ahead of me because I'm going to talk for no fault divorce, and I'm a plain working man.

In the papers today, we read a lot about captives over in Vietnam. Well, I've been a captive of the legal separation law in this state for 18 years and I can't help myself. Does a man have to be like that in this state for freedom? All them boys that died for our freedom - you have all these lawyers giving you fine speeches, but I've observed in the Superior Court, the Hartford Superior Court, and you sit there in a spectator's seat and what they tell you here is just the opposite that is in the court.

They use the woman, especially if the man, I'm not a rich man, I work for a living, but they try to get all they can so the woman can get it and then they take a weekly charge out of them every week and that's happening right now. Now, three times we went to court and Judge Shannon, after four years after the legal separation, he said he didn't want to interpret it, so we went and got a transcript of the law. Its very vague, its just a broad statement that leaves it up to the judge. Six years after the decree was granted we went into court again and Howard Alpond was on the bench, I think he's retired now. He said he didn't want to make a determination on that law, so what is he judge for? Just lately, Judge Harold Farmer, just before he died, bless his soul, we went into court, and he was the most fair, but he couldn't do nothing with this lawyer. Now I endorse this no fault insurance law, but I tell you this, I also, for the children, I've got two sons, I put one through college and the other one I put through truckdriving school and he's making more money than the one who went to college, and these lawyers go to school to applicate the law.

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Now, I'll tell you what the lawyer who represented this woman told my two children. One was 14, one was 8. He said you don't need your father no more, and today my oldest son is 31 years old, my oldest son is 26, and they ask me that question - how can a guy get a lawyer's license and tell us that. Now, this is the first opportunity I've had to have a hearing on divorce laws because you fellows don't have it, and I didn't see much advertising about this either - only in the Hartford Courant last Sunday, it said that eight o'clock here. I was going to go to Hartford but found out there's nothing there right now.

So, anyway, I'm all for it, and these lawyers that come up and tell you nice speeches when they get into court, they don't talk like that no more, boy, they try to get all they can. They conspire with the female, and if you're a Wallace Barnes you get pasted, and he just got taken too, brother. Thank you, gentlemen. That was short enough, wasn't it?

REP. HEALEY: Thank you, sir. Mr. John Plover.

MR. PLOVER: My name is John Plover, and I'd like to speak in favor of this no fault divorce bill that's coming up. If I don't speak with quite the vehemence of the gentleman who just followed me, who just stopped speaking, is probably because I've been trying to get a divorce only a year and a half rather than 18 years.

It seems to me speaking as a private citizen that divorce is very much a private matter, not something to be dragged out into public, and I have no desire whatsoever to hurt my wife or to drag out the sad laundry of 20-year marriage. Under the laws of this State, either a man or a woman who wants to get a divorce on the grounds of just incompatibility where all love is dead for the other one, there's just no chance to; there has to be fault found and fault has to be there in the tree as though you're taking some precious possession away from the other one.

Marriage, it seems to me and to a lot of people I've talked to, is a thing of equal consent. When the consent of one is withdrawn, and certainly over a period of time not a hasty thing, but when love dies, when respect dies for the other one, then I totally agree with this other gentleman when he says to be forced to remain in that condition is captivity, it's inhumane. As far as the statement that the previous lawyers made about the need to keep it clean to establish fault, it's really barbarous to have to say this one is at fault, this one is innocent as a lamb, and a marriage is a mixed thing. The death of our marriage was a joy affair, I'm every much at fault as my wife was. The fact is this marriage is dead,

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there's no way to revive it. My wife is very unhappy about it but it is a fact of life, I'll never go back to her, I've been out of the house now for a year and a half, and I'll fight for this divorce as long as I can.

I believe too the laws are stacked against the one who wants to get out of the marriage, whether its a woman or a man, and that it tends to work out like a marketplace organ situation where the one that wants out has to pay for it. I am very much concerned, I'm not coming here as a disinterested spectator but as a affected individual in the state. I have a daughter who is 12 years old and I love her dearly and I want to see to it that she's well taken care of, but I too hope someday to marry again. I believe in the institution of marriage, 42 years old and not too old to not consider remarrying again some day, but I don't want to beggar myself for the rest of my life.

It seems to me that no fault insurance will allow the courts to concentrate on the important matter and that is the alimony and child support and all of the factual matters of the divorce, not the fault. It seems to me the alimony and child support can be worked out solidly on the basis of needs and facts, like my income, what her standard of living was before divorce occurred, and the fact that my income is split in half. Things like that. It shouldn't really enter into it what the couple did in their private life. It seems to me that fault divorce as the lawyer from the Connecticut Bar Association pointed out ,it seems to me that fault divorce requires two human beings to drag out all their, the most intimate details of their marriage right in front of everybody and that is barbarous. It also affects the children, there's no doubt about that. That's all I have to say. Thank you.

REP. HEALEY: Thank you very much, Mr. Plover. Charles Mokriski.

MR. MOKRISKI: I'm Charles Mokriski of the Law Firm of <sup>Day Berry</sup> ~~Bayberry~~ and Howard, and I'm speaking very briefly tonight on behalf of the Connecticut Daily Newspapers Association, in favor of something along the lines of the shield bill, I believe a copy of which was submitted to you by Gene Martin of the Waterbury Republican American earlier today, Mr. Healey.

REP. HEALEY: He did speak earlier. Did he leave a copy?  
Yes, he did.

MR. MOKRISKI: I believe he left a copy outlining where our roosal differs from administration Bill 8107 and wh we think its compatible with the intent thereof

REP. HEALEY: Surprise, surprise.

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MR. MOKRISKI: He did not?

REP. HEALEY: I said, surprise, surprise, that your position differs.

MR. MOKRISKI: We hope it's not considered that it differs so substantially that the differences can't be ironed out. I think one of the major problems is that the form of the Administration Bill as it is now would not have a protected those defendants in the various Supreme Court cases which have raised all the issues and raises the shield bill to the level of public interest that it is. In particular, Bransberg, Mr. Bransberg in the case of Bransberg vs. Hayes that was handed down by the Supreme Court last summer. Mr. Bransberg was an enterprising investigative reporter that wanted to do some research into the drug scene. This is very important to the community in Kentucky for which he wrote. There was no gains in it for himself except for, obviously, earning his livelihood as a journalist, but to illuminate the public to very serious problem.

Kentucky had a shield bill similar to the one proposed and yet it did not save Mr. Bransberg from being hauled before a grand jury and being forced to choose between having to reveal his sources and therefore himself and the press for which he stood off from all information in the future, or going to jail, he chose the latter, and his position was eventually, or that jailing was eventually upheld by the Supreme Court. I don't think we want a law that would merely be an invitation to courts and to the government to put reporters behind bars, not for the benefit of the reports because they're not entitled to protection in themselves any more than the rest of us as public citizens are, but for the benefit of the public which is entity which will lose out if reporters are put in jail.

For the benefit of the Committee, I'll just mention a law journal article which I believe is quite good by B. Blasey, called "Newsmen Privilege, an Empirical Study" and it was in the Michigan Law Review, Vol. 70, Pg. 229 in 1971. This is a fairly thorough and scholarly study of reactions of reporters to the possibility of being hauled before a grand jury and have to reveal their sources, and I think that anyone of you that want to pursue the subject further will be quite illuminated by looking into it. Since the model bill which we've drafted we, of the Connecticut Daily Newspaper Association in conjunction with the Council on Freedom of Information is already in your hands and a catalog of the changes that that proposes, I will just leave you with these remarks and I hope that you will give serious consideration to it.

REP. HEALEY: Mr. Mokriski, would you associate yourself with the attitude expressed by Representative Ratchford that the

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MR. GREENFIELD con't: You may recall that in the Spring of 1972, a joint committee of the Connecticut Citizens for Judicial Modernization and the Connecticut Bar Association issued a report on its findings and recommendations. Although the Board of Governors of the Bar Association did not necessarily subscribe to nor approve of all of the methods and plans formulated by the several subcommittees of that joint committee, the Board of Governors did adopt the following as its goal:

1. Adoption of a plan to insure that the most qualified persons are selected as judges and that similar standards be applied for the recommendation of judges for reappointment or elevation.
2. Adoption of a judicial qualifications commission plan to investigate physical or mental incapacity and to investigate complaints with respect to the conduct of judges.
3. The development of a trial court structure governed by flexibility to meet changing needs.

The board of Governors at that time called for further independent study by the Association and others toward achieving these goals and the Board now feels that the special Commission proposed here can be a major step forward toward achieving effective and meaningful modernization of our court system. Such a study would be in line with the view expressed by Chief Justice House in his address to the General Assembly on January 24, to the effect that there "be no rush to effect any change in the basic organization of our court structure without the fullest examination both of its consequences and of constitutional requirements.

The Connecticut Bar Association urges the Judiciary Committee to approve this study commission, broadening its scope as I have outlined.

And that concludes the statement Mr. Chairman. I have a copy of the statement to leave.

REP. WEBBER: Just leave it with the secretary. Did you give us your testimony on the no-fault? No. You plan to do that now, I see. HB 5235

MR. GREENFIELD: I would like to testify now if I may. Its on the no fault. Although I hesitate to use this term of "no fault". Just so there'll be no-lawyers testify that pick up the "no fault" area for sometime now but this is something that the Bar Association endorses and would appreciate the considerable benefits to the citizens of the state.

As you may know the present law contains and follows the concept of guilt in divorce action. Some years ago the Family Law Committee of the Connecticut Bar Association began a study of it to eliminate the concept of guilt. Now the committee felt that in its initial inquiry that the present law required proof

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MR. GREENFIELD con't: misconduct and adversary ----. It is an unrealistic approach to our problems today. It aggravates the hostility between the parties, it invades the privacy of the family beyond repair, should be terminated and that it could be got in a dignified and humane manner, provided of course, that all financial and custodial matters be resolved in a fair and civil manner.

Its interesting to note that the present mind grounds for divorce have remained the same for almost 48 years in the history of Connecticut and that the purpose of non-grounds were the original grounds that were adopted in 1702 before Connecticut became a state ----. The most commonly use grounds today mental cruelty was adopted in 1843 and it remains in the law ever since. Now with this unchanging law we had a change in the moral and attitude of society and we think that the law should change. This is not something new. The concept that we are advocating in this bill 8235, would eliminate all the grounds for divorce, except where physical breakdown of the marriage and that would be the only thing found by the court to decide whether or not the court should grant it.

We're not the vanguard by no way. Some eleven states have adopted either the concept of irretrievable breakdown, irreconcilable differences, one state calls it insupportability of the marriage. Four other states use incompatibility as a grounds and fifteen other states, except the District of Columbia, has adopted some concept of living apart, which is really just another recognition of irretrievable breakdown, as their grounds for divorce.

Now the committee substituting in preparing a divorce law the following objectives should be followed. Five things.

1. That a good divorce law is recognized the state's ultimate goal of safe guarding the integrity of the family. Protecting the dignity of the family and perserving meaningful family relationships. The statute therefore, must seek to preserve pliable marriages but when the marriage is broken down beyond repair the statute should enable the empty shell to be distroyed with maximum fairness to both sides.

2. Sencondly the statutes must respect the privacy and the integrity of thã marriage relationship of the individuals involved.

3. We should protect the interests of children and protect the parents from rash and impulsive decisions.

4. They must encourage the spirit of cooperation and good faith efforts to resolve a very difficult problem of finances and custody and not aggreviate the tensions of the ----, which inevitably accompanies a marriage breakdown.

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MR. GREENFIELD con't: 5. The statute should protect the integrity of the Judicial System and encourage respect for the law.

Now the bill which has been drafted by the Family Law Committee and has been introduced for discussion does, we believe, those five sentences. It provides for the dissolution of marriage where there has been a breakdown. It provides for protection of children by granting the courtroom authority to appoint counsel for the children as well as the parents or either of the parties. It provides for mandatory reconciliation procedure. So that if either party institutes proceedings for divorce the other party must agree to meet for reconciliation, otherwise the party take the way of waiting for six months.

And there are two mandatory complications with reconciliation. The bill provides for orders of protection of the family during the pendency of the action as does our present bill. It provides that no dissolution of the marriage can be accomplished happily until matters of custody and finance have been determined, and has been decided upon by the court. It has a twelve month residency requirement. You must be a resident either twelve months before instituting this suit or you must wait for a judgment of dissolution to the marriage until you have been a resident for twelve months. To avoid the possibility of people coming to Connecticut for quickie divorce proceedings.

Now the, of course, the whole concept of alimony is one that creates many emotions and there are many antagonisms connected with it and again, by eliminating the punitive aspect of financial awards and would allow the courts to make equitable determination of the needs of the party to meet their needs in event of dissolution of the marriage.

I want to conclude by quoting one of the judges in Connecticut who spoke to the Board of Governors of the Connecticut Bar Association a few years ago when the bill first was introduced. He said, "I'm sure that most objective observers would agree, that the present divorce statute is a judicial charade. There is a tremendous gap between the stated grounds for divorce as embodied in the statutes, the actual grounds for divorce required for conditions for a decree. Most Superior Court Judges required to --- such minimum number of cases, if he is to reach home free, and they are one jurisdiction to marriages aren't produced or contributed to by the defendant's nervousness. The proposed bill concerns itself with one basic problem, that if the marriage in fact, broken down irretrievably, regardless of the reason and if it has, then the court will limit its concern for the consequences for such a breakdown. Not only is this the honest way to deal with the concept of the problem but the shifting of the responsibilities of the preservation of the marriage is from the society to the individual involved and it offers some hope that some marriages may therefore be saved". The statute does not attempt to establish an easy divorce in Connecticut. It clearly recognizes the need for preserving viable marriages and respectable marriages and individual rights.

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MR. GREENFIELD con't: The fact that it seeks to provide a more civilized and less hypocritical procedure to terminate those marriages that are broken beyond repair. It recognizes the dignity of the individual and right to privacy as well as the need for greater protection for the interests of the children and it is the hope of our Board of Governors of the Connecticut Bar Association and the Family Law Section of the Connecticut Bar Association that the legislature would abide by this bill. Thank you.

REP. WEBBER: Thank you very much. Any questions? I was looking at the bill Attorney Greenfield, does it determine the type of conciliator or designate a particular one.

MR. GREENFIELD: No. It provides that three classes, if I remember. Either a clergymen, or a physician or a recognized licensed counselor.

REP. WEBBER: Agreeable to both parties?

MR. GREENFIELD: Agreeable to both parties.

REP. WEBBER: Thank you sir.

SEN. KAGEAN: Mr. Greenfield would you when you get back to your office tomorrow sum up what you said in writing?

MR. KOFFMAN: My name is Michael M. Koffman of Koffman Advisory Service, 603 Central Avenue, New Haven. I have a number of bills to talk on. I didn't have time to study them until tonight and its going to be very quick. So here I go on Bill #8087, AN ACT CONCERNING PENALTY FOR THE SALE OF DRUGS BY A NON-DRUG DEPENDANT PERSON.

All I have to say on that is that young people are telling me that liquor and drugs have the same effect and should have the same penalties and therefore, what applies to the sale of narcotics with distribution and everything else should be included with the sale liquor ought to be included with that.

On bill #8269, AN ACT CONCERNING A COMMISSION TO DRAFT LEGISLATION FOR THE REORGANIZATION AND UNIFICATION OF THE COURTS. All I can see is that is a another ---- to create another commission to spend your money and mine the taxpayers and hire professional, whatever that is today, people who spend our money while they get their fancy salary. I question that. I'd like to know isn't it possible for the judges and the attorneys to do this themselves and not waste the taxpayers money by creating a commission to do so?

On Bill #8297, AN ACT CONCERNING THE DEATH PENALTY. I say that this should be ---- as it could be. I noticed that the FBI came out with a report that the years 1960 to 1970 when the courts became lacks and the laws didn't cover, at least in my eyes, the criminal to commit capital crimes such as murder, rape, violence, robberies. The crime rate went way up and I

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MR. KOFFMAN con't: think, to me anyway, the evidence is there, the facts are there because the law permits the criminal to do such things. I think that we ought to go back to the years prior to 1960 the 40's and 50's and make the laws with this country and enforce those laws that are on the books and haven't been enforced, so tht the murderer gets the electric chair or gets the death penalty and the criminal for kidnapping and everything else. Those who feel that they want to commit crimes will know that they will be strictly ---- and that's the only way we're going to stop them. and the wave of terroism that is sweeping the country in murders, kidnappings and hi-jacking of airplanes and everything else.

On Bill #8235.

REP. STOEBERG: Excuse me Mr. Koffman, may I ask before you go on that whatever statistics you have on that in terms of increase in crime rate, capital crime rate as related to population growth, if you have those would you submit them to the committee?

MR. KOFFMAN; I have them in my office and I worked until 7 o'clock this evening. I was up in New Britain.

REP. STOLBERG: We won't be voting on the bill for a while.

MR. KOFFMAN;; Do you want all copies? I'll send them to you.

REP. SWOLBERG: One copy and I'll share it with the committee.

MR. KOFFMAN: I'll send it along. Bill #8235, AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE. I'm divorced and I speak from experience not only of myself but of many of my friends who have worked for me, or are in the process of being divorced. You know experience is the best teacher. Probably the answer to the problems of life are never found in a book. But I had a remark here of some thoughts. As long as the wife is able to work, she should not be granted alimony. There should be no alimony granted when the husband cannot make ends meet for himself and perhaps can make a new life and get remarried again. He can't afford two households and there's no sense, as the saying goes, paying for a dead horse, and no real charges should be placed against either party after the breakdown. I have this friend of mine, many friends of mine but this one in particular, who had a horrible marriage and they broke up and after awhile after she felt that she was entitled to have male company and she did. I told her it was against the law and you were going to get into trouble and she was later in court and she was branded unfit to bring up her children, which was unfair because she was being ----. I think that all the people would agree with me on that. Also branded I don't often use the word but ridiculous shame, which is ridiculous.....

REP. WEBBER: Excuse me Mr. Koffman would you please direct your remarks to the bill, the particular bill?

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MR. KOFFMAN con't: To continue, I think a clause should be put into this bill, that one party cannot arbitrarily remove furniture without the consent of the other and I remember that this girl told me that while she was out earning a living for two children, her ex-husband went into her, her present husband, they weren't divorced, went into her house and removed every bit of furniture she had just bought to furnish it. He had that right. I don't think any man or woman has the right to invade the privacy of someone who was married to them, even though they were separated and move the living room, the kitchen, the bed room, the dining room, every piece of furniture she had in the house. When she came home that night the children were sitting on the floor. They had no place to sit. I think that, that should be included in the law. ----- say I'm stupid.

On Bill #8267, I say this from experience, but I must say my apologies to Mr. Gill who --- nice public defender and obtain for the aid of the family who I ---- ----, but until he entered the picture, they were ----, they were ----. The public defender, who is supposed to defend and I say suppose to, they should not and I should not get in conference with the public defender and from experience I must say that the public defender doesn't ---- office not --- legal aid to the poor. The public defender in my experience are afraid of the judge and the police department and cannot adequately defend those that they are suppose to represent and therefore, I suggest that the public defender ---- be completely eliminated and legal aid society take over.

It's contradictory on the ---- of reporting of child abuse cases. We can report the abuse of an animal but we feel for cows, or whatever animal he has. If a neighbor calls about beating a cat or a dog and have him arrested. But you can't do it if a parent is beating a child and ---- -----(overlapping of conversation of committee members).

AN ACT CONCERNING THE ESTABLISHMENT OF DIVISION OF CRIMINAL JUSTICE IN THE OFFICE OF THE ATTORNEY GENERAL, WHICH is Committee Bill #1690. I didn't read much about it except what I saw in the papers and I haven't had time to read that, but I say that I object to it. I think its just another poor ---- to create the ---- jobs and I think that we ought to save taxes and prevent another bureau from being created. Because you and I pay for this bureau and they call it taxes. Its about time the politicians realize it. I don't like hypocritics whossay, we got to cut down the taxes and save the taxpayer money and vote themselves raises and more bureaus so that they can take money from the taxes and up to now that's all I have. I don't know if I'll have time to talk later.

REP. WEBBER: Thank you very much, Mr. Koffman. Representative Morris.

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REP. STOLBERG con't: that is that despite all the batter we're getting about the desire for the return of capital punishment we are coming close to the conclusion of our second hearing on the subject and thus far I have been keeping a running count and we've had 32 articulate spokesmen against capital punishment and 2 for it. So my own poll comes up with a reverse conclusion.

REP. WEBBER: Miss Levine . Barbara Levine. Bruce Walker.

MR. WALKER: Mr. Chairman, members of the committee, ladies and gentlemen. I'm Bruce Walker and I'm --- Milford. I'm representing the Connecticut Jaycee's. Our ---- on legislature we acted favorably on Bill similar to your Bill 8235, AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE.

It is the Connecticut's Jaycees official policy to strongly endorse the concept of 'no fault divorce'. At the deliberate this among other bills for two days, it was our conclusion that the present system of divorce generates forces the party to enforce to perjure themselves in order to obtain a divorce that they want because they recognize that their marriage has broken down irretrievably. By enacting this bill we would want to bring more dignity to the divorce proceedings. We see this in our statement of purpose that present divorce laws requiring proof of guilt in adversary speaking are outmoded, archaic, unrealistic and unsuited to concern social need.

The sole basis of the dissolution of marriage is a finding that the marriage has broken down irretrievably. That is that there is no prospect of reconciliation of the parties and legitimate object of matrimony has been destroyed, and we strongly urge that you adopt this bill.

I would also like to speak very briefly on Bill 8139, AN ACT ADOPTING A UNIFORM LAW FOR ALCOHOL AND TREATMENT ACT. This bill too was adopted by the Connecticut Jaycees and I might add that the USPC are planning to adopt this bill as a priority project for next year. Inasmuch as there are some 9 million alcoholics in the United States and is rarely recognized by medical authorities that it is a medical problem stated an illness or disease it ought to be treated as such and not as a criminal proceeding. Thank you.

REP. WEBBER: Thank you very much. Mr. Tyler.

J. TYLER: I would just like to make the observation that some gentlemen before that you didn't listen to ~~me and I didn't~~ like what I said or you didn't listen to me because you excluded me from the bill and that is 8107 whereby you define the section of journalism as 'full time' and I'm sorry but I doubt that there are many part time first selectman who do not think that they are every bit of time as the first selectmen by being either

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have broken down the fences of the law and the tradition that has protected the press are broken down, and the people are the victims. To quote a prominent jurist, "I feel that the first amendment, as I read it, was designed precisely to prevent that tragedy." Thank you gentlemen.

CHAIRMAN: Are there any questions?

MR. SCOONMAKER: Mr. Chairman, Members of the Judiciary Committee, my name is Samuel Scoonmaker and I am here tonight as chairman of the Family Law Section of the Conn. Bar Association, and also here on behalf of the Conn. Bar Association itself, to endorse two bills which are for the, before the General Assembly this year. Those bills are #8269 and #8235, court reform and reform of Connecticut's laws relative to divorce. Briefly, on the Conn. Bar Association's position on the court reform, the Conn. Bar Association endorses its principal bill number 8269, which provides for the creation of a commission to study reorganization of the State Court system. The Conn. Bar Association has a formal written position on that matter that I would ask the Committee to consider, in written form, and I would like to submit a copy of that too. Mr. Chairman, with respect to the divorce reform proposal, H.B. 8235, again speaking for the Family Law Section of the Connecticut Bar Association and for the Bar Association itself, we endorse this legislation and the section of which I have been chairman, has been studying the possibility for reform of divorce laws in Connecticut since 1967 and after an extensive and intensive study of current divorce reforms and procedures, our Committee has reached the conclusion that Connecticut's divorce laws are badly in need of reform. As the Committee well knows, Connecticut's present laws are based on a fault concept, a concept that is adversary in nature, which requires one spouse to assume an adversary position against another spouse, when the marriage has broken down beyond repair, and in order to obtain a divorce that spouse must show that the other spouse is guilty of marital wrong doing, adultery, desertion, intolerable cruelty, or intemperate use of alcohol and that the spouse who is claiming a divorce is totally innocent. It is our impression that marital discord cannot be pushed into such narrow categories as statutory grounds for divorce and we feel the adversary nature of the divorce proceeding is not in the best interest of the parties or their children or the State. It is the position of the Family Law Section, that the State has a very real and genuine interest in the quality of the American family and in the integrity of the American family because the American family is determinative of quality of life in the next generation. We are very concerned

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that the American family unit be strengthened in all respects so that the children of all marriages, both marriages that are happy and those that are unhappy, have the best possible chance for doing the best possible jobs for themselves and the society in the next generation. We feel that any divorce law which pits parent against parent, which escalates the animosity between parents, which encourages parents to deprecate their spouse in front of their children, is not in the best interest of society; it is not in the interest of the children; and it's demeaning to the people that are involved in the particular situation. Furthermore, it is a conclusion that those people who deal in the domestic relations area, that domestic breakdown is really the fault of one party, and that to determine where ultimate fault lies when marriage fails, is a very difficult task, indeed, and perhaps a hopeless task. We feel the realistic approach to marital disharmony is to address ourselves to the preservation of the best possible relationship between the parents and their children after a dissolution and to attempt in a civilized fashion to terminate an unhappy situation. We also feel the provisions for saving those marriages that can be saved ought to be strengthened by the State and feel too little has been done by the State in the area, first of all, marriage relationship itself. Marriage is too easily contracted, contracted perhaps too often too young an age, contracted for the wrong reasons and our section is addressing itself to those matters and also feel that people should not terminate marriages, especially where children are involved, quickly, inadvisably, for the wrong reasons, however, where the marriage has failed beyond repair, we feel it should be given a dignified burial and terminated with the least possible discord and trauma everyone involved and particularly the children. Connecticut's present divorce law does not recognize these principles; we are still dealing with unrealistic situations, people who do not live together in Connecticut do not live together, they simply desert one another, they run to foreign countries or foreign jurisdictions to obtain divorces or they go into court in Connecticut and obtain divorce on grounds that simply do not exist and they advise the court of half truth and sometime, I regret to say, falsehoods, in order to obtaining an end which they both feel ought to be obtained. Conn. citizens should not be put through the indignity of having going, to going to foreign jurisdictions; they should not be encouraged to desert, however, good marriages or possibly good marriages ought to be encouraged, therefore, it is the view of the Family Law Section that the law has got to be brought into the 20th century and to do this the Section has suggested to the General Assembly, in the terms of legislation, that all the traditional grounds for divorce in Connecticut, Adultery, Desertion, Intolerable Cruelty, and Temperance and all the rest be abolished and in their place one ground for divorce, irretrievable breakdown of the

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marriage would be the sole ground for the divorce. We have also suggested to the General Assembly that the conciliation procedures in Connecticut be strengthened; we feel Connecticut is doing too little to investigate and evaluate whether a marriage is broken down or not broken down, we would like to see more effort in that direction. Therefore, the Bill requires two mandatory conciliation sessions; if either party so desires, in order to evaluate the marriage. We further feel, in accordance with my statement earlier, that it's of tremendous importance to the State and to the parents to protect the interest of children to the extent that those can be protected in marital discord; in that regard we have suggested that in certain instances, the court be permitted to appoint attorneys to represent the interest of the children, where the court is of the view that the children's interest are not being properly protected, by the attorney's representing the father and the mother. We further feel, in certain instances, that a ward of custodies to someone other than the father and mother, in certain situations, would be appropriate. For example, if a grandparent, uncle or aunt, or some other person was in a better position and more qualified to rear a youngster, under certain circumstances the court should certainly hear their side of their story and find out the, whether or not the best interest of the children would be served by placing custody in someone other than the father and the mother. We further feel that the alimony laws in Connecticut are not accomplishing the purpose that they ought to accomplish. We would like to see discretion given to the court to make alimony a positive thing rather than what it is today which is sometimes a negative factor; we would like to see especially with young people involved, so called rehabilitative alimony, where the court would award alimony to a husband or wife for a period of time in order to give that person an opportunity to obtain vocational skills and training and education so as to become a productive member of society, both for themselves, for their own personal benefit, and also to terminate a syndrome which is sometimes found, sometimes known as an alimony drome. I would like to say that legislation similar to that that we are proposing, has not only been proposed but has been adopted in many sister states, in particular, Colorado, Florida, Kentucky, New Braska, now allow divorce on the grounds of irretrievable breakdown of the marriage which is the grounds of the Statute that we are proposing to this General Assembly. California, New Hampshire, North Dakota and Oregon permit divorce on the finding of irreconceivable differences. Texas, on insupportability of the marriage and Iowa and Michigan on breakdown of the marriage relationship; a total of 11 sister States that can now adopt, have now adopted similar legislation. From my own personal conversations with lawyers and judges, particularly in the States of California and Texas, there has been a good experience in those states that have had

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this law since 1970, the Judges are satisfied that the system is working well to the best interest of the society. I will say that the Connecticut Bar Association, the organized association of lawyers in Connecticut were polled in December of this year, as to whether or not they favor the abolition of the traditional grounds for divorce and a substitution of irretrievable breakdown as a sole grounds of divorce and the results of that poll were: That 81.7 per cent of the lawyers polled favored the elimination of the the traditional grounds of divorce and the substitution of irretrievable marriage breakdown. This Bill has been endorsed not only by the Connecticut Bar Association but also by the Greater Hartford Council of Churches, the Connecticut Jay Cees, the Family Service Society of Hartford, Northern Connecticut Chapter of the National Association of Social Workers, Stamford Section of the National Council of Jewish Women, Legal Services Project, Director's Council, Service Bureau for Women, Connecticut Council of Child Psychiatrists and the Connecticut Womens' Political Caucus. I would just summarize, at this point, by indicating that the overwhelming support that this legislation has received from the organizations just named; the good experience in other States, would seem to indicate that it's about time Connecticut adopted good social legislation along similar lines, recognizing that we are not in the forefront of this movement, that others have gone before us, that others have had a good experience, that others who have adopted this legislation have not found it wanting so that they repealed it, it was, but substantially modified it; people have come in from other States to seminars that we have held here after three years, two years of experience with this Statute and they have said that this is good legislation, that families are, indeed, being helped by this legislation both in terms of bringing families together where that can happen and that's not too often, by the time they get the divorce, they get to divorce court, not too many families turn back, but in terms of keeping the animosities attended to a disillusionment of marriage at the lowest possible ebb. To deescalate the situation in the children's interest, in the parent's interest, and ultimately in the interest of the quality of the children that will be rearing and acting for us in the next generation, thank you.

CHAIRMAN: Are there any questions? Questions from the panel, not questions from the audience?

ELIZABETH SPALDING: I'm from Greenwich, Connecticut, Chairwoman of the Health Committee of the Representative Town Meeting there. I m the guardian parent of 6 children. I speak to you this evening as the Connecticut Representative of the National

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Task Force on Marriage, Family Relations and Divorce of the National Organization for Women. Let me first explain that a Task Force of NOW are members of NOW who volunteer to gather data on a social problem of consequence to women. This data is then turned over to the National Board of Directors of NOW for study and action, if action is called for. The NOW Task Force on marriage Divorce is the only group in the U.S. today that is gathering data on the conditions that actually exist in divorce. We have units researching divorce in 8 states at present which together with our task force which is nationwide, gives ua a fairly comprehensive picture of the aim of the task force is to gather data to dispell the mythology of divorce and point out the Beta errors of divorce legislation, in an effort to arrive at a modern concept of divorce law law that will recognize the equal right of the guardian parent to a life style equal to the providing parent; equal protection in the courts and show some consideration for the beleaguered taxpayer who is presently paying for all the errors by increased court costs, more public assistance costs, eosts of juvenile delinquency in broken homes, etc. The sheets before you, ladies and gentlemen, are from a survey I recently started in Connecticut. You may have seen the complete survey that I sent to co-chairman Bingham - sent in late January. Sparce as the data is, it does put a framework around the problems of enforcement in Conn. Please do not treat it lightly, as it represents a great deal of work on my part and I have been called by the U.S. Dept. of Labor and the Office of the U.S. Senate Finance Committee to send them copies. They called me after the Labor Department and I did not send them the complete report, just some sheets from it, and I'll tell you why. Once two such August Governmental departments had called me, I knew we were on to something special. I'd rather give our state and, in particular, this committee the opportunity first to come up with a divorce bill using the data herein contained, to deal with the problems of divorce in humane legislation that could be a model for other states in the Union. It could give national prestige to Connecticut that, frankly, it sorely needs to counteract some of the well-meaning but misguided legislation of your immediate predecessors in the Assembly. Let us know, look at the myths and dispell them, the first myth is that divorce settles all the problems of married couples in conflict, when in fact in Conn., using 1971-72 figures, for every divorce that was granted that year, there were 4 enforcement matters on an annual basis and, if you add in the backlog of cases, there were 7 enforcement matters

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for each divorce granted. This means, incidentally, that the actual workload of the courts in annual matter is 1/4 divorce and 3/4 enforcement; adding in backlog cases, the workload becomes 1/7 divorce and 6/7 enforcement. The second myth is that a man supports his ex-wife and children, when in fact 70% of divorced women work and 50% of separated women work. The question then becomes, how soon does a divorce become an enforcement matter? This leads us to the third myth that men pay when the court orders them to do so. The ABA study shows that 62% of men are in non-compliance within the first year of divorce. In Connecticut, that would mean of the 7034 divorces granted in 71-72, about 4400 divorces will be in some form of non-compliance by July of this year. To call this non-compliance by July of this year. To call this non-compliance is simplistic in the extreme. It is saying that 4400 men lost their jobs last year? Or that 4400 businesses went bankrupt in the same year? Non-compliance within the first two years, is conspiracy to defraud and should be treated by the law as just that. Compliance is after all a law and order issue just like crime in the streets. The fourth myth is obvious, that the court gives equal protection to both parties in divorce. Equal protection is guaranteed by the 14th Amendment but when it comes to divorce and enforcement, the law seems to treat this area as something apart from other law. When the husband is in non-compliance, the woman must enforce the court orders at her own expense and pay, in addition to that, to support herself and her children for the waiting period. The odds in Conn., 1 in 2 of collecting one payment, on an annual basis and, if you again add in the backlog of cases, one chance in 8 of one collection, Equal protection would mean a wage execution or bond with every divorce or legal separation. In practice, in Connecticut, we are told, a man must be brought into court about 5 times on non-compliance before the court will order his wages garnished. In 1971-72, there were 295 wage executions in 29,495 enforcement matters in the 3 courts. In this State, this meant that 1% of the petitioning women got equal protection and 99% did not. Aside from the injustice of these percentages, consider that 5 times 4400 is 22,000 enforcement matters to be generated by those same divorces of 71-72, all of which will jam an already crowded calendar, delaying the hearings which will increase the living cost of petitioning women waiting for their cases to be heard. The next myth, to be considered, the fifth, is that alimony and support orders reflect the life style of the marriage; A look at the ABA study shows in fact, that 86% of judges award 50% or less of the husband's income, no matter what the size of the family. The same study showed

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that a man with a net take home pay of \$100 per week, after all deductions, was ordered to pay child support of \$22 a week for one child (leaving the father \$78 per week). For 2 children, \$30 per week (leaving \$70 for the father). For 3 children, \$45 per week (leaving \$55 for the father). There is no alimony to the wife to be figured in these cases mentioned. Alimony is only awarded in 10% of divorce cases anyway and 1/3 of the states require that women pay alimony if they can afford it, and if it is needed. This brings us to the 6th myth. That women make money on alimony, she, as I have already stated, 70% of divorced women work; 50% of separated women; alimony ceases with re-marriage now; it is taxable to the woman as income and a tax deduction to the providing man; it is not enforceable out of state, once the man goes into non-compliance, which they do. It is estimated and I remind you, in 62% of cases within the first year, it is important to review these myths, because divorce and other laws are often drawn on the basis of them. The concept of the no-fault divorce law now suggested, that has been publicized, that has been publicized in the press and talked about by the CBA is that bitterness and recriminations are the problems of divorce and they occur before the divorce takes place; that the Adversary procedure accentuates these two problems and that if a no-fault bill were passed in Conn., the bitterness and recriminations would be eliminated. This reasoning is entirely predicated on the myths I've just, I hope, destroyed: It concentrates on divorce and on making it easy and quick but there was no mention of enforcement in the original bill. Divorce and enforcement are interwoven and must be dealt with together; it presupposes that there are no enforcement and collections problems worthy of noting in this new legislation, it presupposes equal protection in the courts, and prompt payment of alimony and support awards that are fair and reflect accurately the life style of the marriage. In short, that there are no problems in divorce except adversary procedures. The survey shows that none, repeat none of these suppositions are true. They must all be thrown out by this committee. Hard data must be obtained and a divorce bill that considers both divorce and enforcement as sources of bitterness recrimination and deals with both. The proposed bill, or the bill as originally presented, took one side of the intersect and liberalized it. If this committee repeats that error, you will increase your divorce and your enforcement matters and your non-compliance rate; and your ratio of divorces to enforcement matters will increase and you will decrease your already low percentage of success in making one collection. The ancillary problems of divorce will also increase; the public assistance rolls will rise proportionately; the incidence of Juvenile Delinquency, as 98% of juvenile delinquents come from broken homes; you further crowd will the, will further crowd the court calendars; increase the burdens of the already

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over-worked judiciary; and increase the frustrations of the understaffed and overwhelmed family divisions. Underneath all this, lies the ever increasing ghreat to the family as a unit or as a secure 1/2 a unit in the vent divorce. A strong family unit is the State's best independent ally in maintaining the stability of society, because a family does in microcosm what the State does for its population as a whole. A strong family unit has the following programs built into its structure; health, education, preventive medicine, medical and nursing care; crime prevention; work and training. Programs: moral guidance and law and order; religious training mental health program; its own public assistance program; care of the aged to name a few. All of these fill the needs of people. In whatever area just mentioned, that a family cannot solve its own problems, the state has provided as a matter of policy, substitute programs AFDC. Non-profit foster homes and institutional care for unprotected, or inadequately protected children in distressed situations, for example. When divorce occurs in a family, the state's ally is weakened by the threat to the financial independence of the guardian parent, the mother in 98% of divorces to date. The ally, thus weakened is still a potential ally of the state, if some measure of protection had been given to gurardian parents, In contrast, the divorced woman has been dropped into the iniquitous enforcement and collections systems now current in our marital courts. Her ability to provide a home, for her children, and also the emotional stability and supportiveness they need in such a traumatic time, has been almost destroyed; the women who have been able to provide for their own children have done so inspite of the court and in spite of the state - not with the aid of either. The state has unwittingly allowed its guardian mothers to be bludgeoned by the system because the state has accepted the mythologies here to for outlined. Women may be constitutionally stronger than men, but they are not made of iron and they have to give way in time. And this is the symptom that our Task Force is seeing, increasingly, all over the country. That is, the number of women who are leaving their children with their husbands, or turning their children back to the fathers, and going off to support themselves. This is the inevitable response to oppression. Oppression by the courts, by the law, by ex-husbands, by ex-husbands, lawyers, and in more instances than either of us want to think about, even oppression by their own lawyers. The first type of mother who acts thusly, is the middle-aged woman who has raised her children, almost unaided, until they're in their teens, Whe refuses any longer to support herself and her children in a labor market that offers her unequal pay for the same jobs as men; unequal job opportunities which difficulties are, in turn, compounded by the escalating costs of living. This woman has paid her dues to society, so to speak and she wants to live a little while she is young enough to enjoy it. The

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children go back to their father and she takes off. Is this a role reversal? Or a role expansion? Another type of mother we see, is the woman under 30. These women have been brought up differently than the older women, who were trained to think that the worst thing a woman could do, was to desert her children. They do not feel that way. They know the State or the Government will provide and if one department of the government does not help you, another will. For example, the Marital courts are easy on men and tough on women, so these women go into public assistance when they divorce or are separated and they stay at home and raise their children, they get more from the Government than the supports orders, and they get it on time. They just let the HEW chase the non-compliant husband. There was a 5% rise in the public assistance rolls last year in this age group, just to prove out the point. Another young mother who wants to work takes her look at the system. She knows the courts are unfair and she knows the labor market is unfair to women too. She is willing to work to support herself, but knows she will be in bondage if she takes her children with her; she has not the option of day care centers to put her young children into while she works; she leaves the children with the father, takes no alimony and no support and goes out and supports herself. She knows the children will be brought up by a working parent, no matter which way the custody goes. The husband has more job opportunities and better pay he can take better care of them financially than she can. Is this a role reversal? Or is it facing the facts in this life that our mythology has blinded us to? Or our prejudices and, imprinting blocked us from seeing? These women, incidentally, are not members of NOW, or not yet? We as a Task Force, do not urge women to leave their children in protest against an unjust system. Divorce is many things, it is psychiatric, and sociological; it is financial; it is justice; it is injustice; it is equitable; it is punitive. No Committee deals with it wisely, if it deals with it partially, or deals with it in ignorance of the facts. There are one million divorced people in the U.S. and there has been one study on compliance; that is unbelievable but true. The Senate Finance Committee said so. NOW is an activist organization committed to social reform for everyone. Women first, because they are the most oppressed at present. And we have presented here tonight the facts we have discovered in Conn. We would be happy to be of service to this Committee in drafting this bill, or in any way you might think helpful. Are there any questions? Thank you for your attention, Mr. Chairman, and Ladies and Gentlemen of the Judiciary Committee.

REP. BINGHAM: Does your organization take a position on the grounds for divorce; other than the support divisions, provisions of the divorce? Do you recommend a change in the grounds for divorce or take no position on the grounds for divorce.

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ELIZABETH SPALDING: Are we in favor of a no fault divorce:

CHAIRMAN: Well I don't classify irretrievable marriage breakdown as no fault and some people do. We do have specified grounds for divorce in Connecticut, do you recommend in a, a change in specified grounds for divorce:

ELIZABETH SPALDING: I think we recommend a change in the enforcement on the property division and protection of the mother, that's our primary concern.

CHAIRMAN: As I understand it then you have no objection to the portion of the which, of the bill which states as the single grounds for divorce, irretrievable marriage breakdown.

ELIZABETH SPALDING: Yes I have, I have just spoken to that, I am saying that they are interwoven, the enforcement on the grounds are interwoven and you are dealing here only on the grounds. Am I answering the question:

CHAIRMAN: Do you have any statistics that you would indicate that increasing the grounds for divorce would prevent divorce or do you have any statistics which would indicate that if we change the grounds for divorce divorce would become more likely:

ELIZABETH SPALDING: There are records that we, will show you that no default, no fault divorce in California, the number of divorces went up 20% the first year and I don't know what subsequent figures are available.

CHAIRMAN: The number of divorces have increased in Connecticut every year and we haven't changed the grounds for divorce in a long time.

ELIZABETH SPALDING: But where can you get the no fault provision:

CHAIRMAN: I won't argue with you but think the California increase follows the country-wide increase in the States that have not changed their grounds for divorce.

ELIZABETH SPALDING: California is a cooky State because thei divorce rate runs about 120,000 a year compared to 168,000 marriages, nobody else goes that high. I don't think it is fair to compare any comparison with that State at all.

MR. CARL HOLLANDER: Honorable Chairman and members of the committee, I'm from Greenwich and speak first as Clerk of the Stamford Greenwich Religious Society of Friends. The Society sends this minute to this hearing urging that the proposed bills making capital punishment mandatory as a penalty

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lose thereby, and be deprived of that full information on issues of public interest, without which our citizens cannot effectively and intelligently exercise their right of self-government. Thus, the controversy over the issue of protection for the media from disclosure of their sources of information, is, in reality, not a controversy between the media and government, but a controversy between government and the people. And for that reason we regard any legislation on the subject that contains loopholes or contains ambiguities or unconstitutional vaguenesses as a device that will fail to protect news media or the public. It is for that reason we find ourselves unable to support committee bill 8107 and the bill that I saw, for the first time tonight, 1647, in both of which we signed definitions that would require subjective determinations without any standard, therefore, unconstitutionally vague and I have on page 2 of the statement, which we are submitting to you, analyzed by page and line, those particularities and the Commission bill 8107, which we find conflict with constitutional requirement and would make it impossible to fairly create and interrupt a shield law so that it would be a shield. We respectfully attach to our statement a copy of the Ohio Shield Law; it has been in effect for many years, with which Senator Taft assured the Senate though it is an absolute Shield Law, has never been abused. We find the terms used in the Ohio Shield Law far more comprehensive and also find Rep. Ratchford's proposed bill, 5213, as sufficiently close to the Ohio Shield Law, to satisfy us that it would serve to insure the protection of the freedom of the press and the freedom of the public in its right to know. I submit this to you and thank you for the opportunity to speak.

SEN. GUIDERA: Thank you Mrs. Feldman;

MAUREEN HARTASCH: I'm from Greenwich, Connecticut and speaking on behalf of the Greenwich Chapter for the National Organization for Women, against bill 8235, the proposed changes in the divorced laws. I would like to read into the record at least part of the resolution of the Sixth Annual Conference of National Organization for Women concerning divorce. The Committee has copies already. "Whereas the present domestic relations laws do not treat marriage as an equal partnership, and do not safeguard the economic interest of the dependent spouse and children at the time of marital break-up, whereas the court system discriminates against women and children by providing inadequate awards, support awards and enforcement of them and now finds that little data and research, that is the little available data and research, indicates clearly that alimony and child support awards are generally so small and so poorly enforced that the spouse who is with the children are having a disproportionate share of the economic hardship

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resulting from the divorce, whereas uniform marriages and divorce provides greater economic protection for women than the common law states now provide. Revisions are still needed and some states are adopting the no cause grounds provided in that law, or otherwise making divorce easier without adopting the provisions relating to the division of property maintenance and child support, therefore, be it resolved, that NOW refuses to take a position of, on no fault divorce legislation until economic safeguards for dependent spouse and children are incorporated into new divorce legislation. Be it further resolved, that the conference proposes a concept of responsible divorce and to this end demands that of State Legislators that no amendment in divorce laws, making divorce easier, be adopted without making changes in laws to assure that (a) the spouse with custody of a minor child, children, and/or students, has no lower standard of living in the spouse without the children and that (b) families without minor children, the spouse who has made a home is able to, is unable to become self-supporting, and is compensated insofar as possible for loss of earning capacity. Thank you.

SEN. GUIDERA: Thank you.

REV. HENRY YORDAN: I am the Reverend Yordan, Pastor of the First Congregational Church of Norwalk and I am here at the urging of the Commission for Racial Justice of the United Church of Christ to speak in opposition to any mandatory death penalty. As a minister and a Christian, I am opposed to the death penalty that, simply on the grounds that every life is the life of a person for whom Christ died but I realize in coming here and urging of the Commission for Racial Justice, the great fear of that commission really is that, as we have experienced, execution in this country, it has never been able to be on a basis that it seemed to work out with justice or equitably and the great concern of that commission is that until we have a society where you can be sure that such laws would be enforced equally with rich and poor, black and white, simply we can't risk trying to have that law changed to have any form of mandatory death penalty so I urge that law not be put into effect. I would also like to speak to the bill 8235 on the dissolution of marriage. As a person who frequently is met by divorced persons who are seeking to be married, I've never yet found a person who, after we talked, felt they were not guilty and so that makes the procedure of divorce quite hypocritical; it just never happens, that any person in a divorce, is not guilty and I find when people come to me who have been divorced,

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to be married, and are seeking a minister of the people who are in the process of divorce, the terrible thing about that is being honest and faithful to what is happening, is to be forced to be hypocritical, therefore, I would urge strongly that the bill be passed. At the same time, I would hope that there was some way of separating that bill from the provisions for support, custody and alimony. It seems to me, also in my experience of Ministry, that over and over, women bare the brunt of a very unjust society in carrying the cost of supporting children and not receiving proper support from former husbands or from society as a whole and I would hate to see these two things so intermixed that you can't separate the purpose of that bill from the concerns of the people who now, from NOW, who have spoken to you, so I would urge the support of that bill and possibly separating out from it, provisions for support of children and property settlement.

SEN. GUIDERA: Reverend, I meant to mention it when the last person spoke, but with regard to uniform reciprocal support act coming into Connecticut without a state judgment going from Connecticut to another state, chasing the husband around the countryside, we have now before us, in the Judiciary Committee, a bill that would simplify the procedures instead of the wife coming in from out of state and having to go through the whole...some simplified procedure, I'm not sure of the exact nature of it but that very problem of support and the ease of following the defendant husband around is being worked on in another bill by this Committee.

REV. YORDAN: It's just that I fear, in hearing some of the statements tonight, that some people are coming here saying the purpose of 8235 is perhaps good but some of the provisions in it seem to come from another direction, therefore, for the sake of the purpose of that bill I would hope perhaps it could simply stay with that issue.

SEN. GUIDERA: Mr. Richard Brinkerhoff, former representative and member of this Committee.

MR. BRINKERHOFF: Mr. Chairmen, Senator Finney, it's good to be back, but my eyes haven't improved. In the interest of brevity as to the proposed law with reference to dissolution of marriage, I speak here tonight as a member of the Public Issues Committee of the Family Children Services and merely wish, in that regard, to endorse the statements made earlier this evening, by Mr. Schoonmaker. We have a particular interest in the Family & Children Services, however,

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and most special one in bill 8155, with respect to adoption. Again, the Family & Children Services agrees very strongly with the purposes of the bill; it feels that it demonstrates constructive and enlightened legislation. With that, however, if I may, I would like to make a few observations in areas we feel might cause jurisdictional problems since perhaps present certain ambiguities. I will not dwell on them in detail because I do have a statement here which I will submit to the secretary and also which I will submit to the Legislative Commissioner's Office to the extent that we, it may be of any help to you in the final drafting of the bill. There are certain areas that I would like to pin-point, perhaps I am wrong in my interpretation, but would like to have it on the record if I be so. In Section 3, which is a section dealing with termination of parental right, it would seem to require a child, 14 or older, join in the petition for termination; I know it is intended to mean that a petition for termination of parental rights cannot be approved unless a child 14 or over does himself sign but this would seem to demand that he participate in the petition as I read it. In Section 4, which deals of, with the area where the Welfare Commissioner must petition the Juvenile Court where he has a child committed to him, and other cases go through the Probate Court, I am not quite sure the purposes of what I would call dual jurisdiction here, but I do see a problem where in the case of a contested case for termination for parental rights, and this is on line 76, it says that the Probate Court may refer the matter to the Juvenile Court but does not make it mandatory. It seems to me if we have dual jurisdiction and there be a contest we might better make it mandatory that the matter be referred from the Probate Court to the Juvenile Court at that point. Section 6 is one which deals with the appointment of a guardian ...for a minor or an incompetent parent. We query whether the petitioner, and I think of the case of a devoted relative who has been concerned over the welfare of a child, to be cause to pay the charges assessed for the appointment of a guardian. It seems to me in a case where someone well meaning comes in merely because that person may have some means that he or she should not be charged merely because he files the petition in the interest of a child. Section 7, deals with the criteria of the court's decision and sets the basis for its findings and among them is one that states where a child is under 3 years of age, that's line 189, that the child may have greater ..ability to damage. It is the thought of the professional staff of the Family Children Services that the age of three is not necessarily controlling and we could not quite appreciate why an age demarcation need have been put in the bill at all because of, the question of

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vulnerability probably would be related to the particular child rather than to the age of a particular child. In Section 9, and this seemed to me to be particularly important, it states that the Court of Probate, where there has been a termination and petition that the Court of Probate shall appoint a statutory parent, yet we may have some cases where the Probate Court has been ousted, perhaps by its own volition of jurisdiction and the matter referred to the Juvenile Court, and as the bill states, that the matter then is denovo in the Juvenile Court. If this be so it wouldn't seem to be significant to have the matter referred back to the Probate Court for the purposes of appointment of statutory parent. Perhaps this best should be in the alternative of the Probate Court or the Juvenile Court as the facts may warrant and lastly, next to lastly, again in Section 10, the same question, with reference to the child, age 14, arises, as I read the bill, I am sure that we merely want to have and insist upon the right to have the consent of that child but the bill that is drafted would seem to demand the consent of the child as I read it. Lastly, Section 11, which is also, incidentally, the present law, deals with one with reference to the rights of the court to approve adoption and approved, and includes approval even where one spouse objects without sufficient reason, it seemed to us, in reviewing the matter in Committee, that what we are really doing here is seeing a very unworkable and impractical provision and one that almost gives statutory invitation to family disruption. I recognize that that's in the present law but I certainly don't feel that we should, by Statute, imply that in any way an adoption be permitted by two parents if there by objection of one. I will leave here, for your consideration, a memorandum with reference to other points even more technical than those I've mentioned. Thank you.

SEN. GUIDERA: Mr. Brinkerhoff, will you make yourself available to the Committee for consultation in the future with regard to this Statute, proposed bill?

MR. BRINKERHOFF: Thank you, I will be pleased to.

SEN. GUIDERA: Thank you very much.

ARTHUR NORTON: I'm Arthur Norton from Greenwich and I come here to you as Executive Vice-president of the Connecticut J C's and as chairman of the JC's program operation THRESHOLD to speak to you in support of committee bill 8139, which is

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will, in fact, proceed with some forms of capital punishment bill. I attended almost four hours of testimony before your Committee in Hartfordland I heard one man throughout that entire evening speak in favor of the restoration of capital punishment in the State of Connecticut. To my shock and amazement he was a congregational minister. I've been here all evening tonight, most of it, and I have not heard a single voice raised in favor of the restoration of capital punishment. Now I don't really know if these hearings are really intended to be what they are set out to be and what they are advertised as, namely as a means of obtaining the pulse of the public, where the public stands and what the public wants, it seems to me that there should be some attention paid to the fact that many many Connecticut citizens going, go on to Hartford and now in Stamford, and in Bridgeport and New Haven, testifying against this legislation and I would submit testifying in very large numbers. In conclusion, and I am sorry that I am taking this much time because I have been given an opportunity to speak before, I would like to caution the Judiciary Committee, membership and their chairman, that no matter what you do in this area, by way of legislation, it is really safe for you to assume, and it has been pointed out by other speakers tonight, rest assured, that the Leopolds and the Lobes will not be sentenced to death but only the William Firmans, the Lucien Jacksons, and the Roberto Godlotos, being a man who was on death row in the State of Connecticut, and who I have been representing in the field process, in the appeal process, and who was fortunate enough as the result of the Firman case, to have his sentence of death revoked and to have his particular life restored to him so if I am here in a representative capacity I would claim the representative capacity of having representing one of the three men who was on Death Row when Firman came down. Thank you.

Firman

MR. NORMAN LATER: I live here in Stamford, this won't be very long, I write big, I am in favor of bill number 8235, AN ACT CONCERNING THE DISOLUTION OF MARRIAGE. I support it as being more equitable than the present law regarding alimony. I present myself as a victim of a current divorce law which is unjust, ruthlessly administered regarding the husband, especially where there are no children. My remarks, I repeat, are directed to divorces where the wife is not a mother. The current law has no bounds as to the alimony her husband must pay and the Appeals Court have rules that the amount of alimony is up to the Trial Courts discretion. The present law regarding alimony does not distinguish between a long marriage or a short one; does not distinguish between long cohabitation or short cohabitation; it does not distinguish

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between the wife's ability or inability to support herself; it does not distinguish between the wife's effort or lack of effort to support herself; it does not distinguish between the 19th Century and the Century of Womens' Lib; it does not distinguish between the restricted housewife of the 19th century vs. the career women of today; there are women legislators, doctors, engineers, and jockey. It does not distinguish between fantasies, fantasy of women's mid-victorian innocence and the revelations of todays sexual revolution. It does not distinguish between the wife's serenity as to her guaranteed financial security and a husband's constant haunting mental anguish because of his resulting insecurity. It does not distinguish between justice for the wife and injustice for the husband; it does not distinguish between a barren childless marriage and a reproductive marriage. I am convinced that the present law is administered to punish the husband for leaving an unbearable life. There are few emotions more destructive of life than the anguish of enduring injustice and I urge you to attend the public sessions of any divorce court and to read the court decisions on appeals made by husbands and their futile attempts to lift the unbearable burden that the trial courts have sentenced him to so you can write a new divorce law such as this one that will not drive divorced men to the depths of despair. The following are appealed decisions which I obtained from the Conn. General Statutes ..under the arrangement of the official General Statutes of Conn., revision of 1958, Volume No. 22, second reprint 1972, under the title 46, Husband and Wife. There is a case of Schragger vs. Schragger, now these appeals, decisions of appeals courts; on page 140, where the Appeals Courts have ruled, ordinarily amount of support should be sufficient to provide wife with kind of living which we might have enjoyed but for the breach of contract, of marriage contract by the husband. My query, is there no concern for the husband's kind of life? There is a case of Falton vs. Falton, 1938 decision on page 141, under statute permitting court to award alimony, the amount rests with the court's sound discretion as determined by circumstances of parties, such as husband's estate, income, age, health, earning capacity and wife's age, health, station and estate. Why isn't the wife's earning capacity considered? There is a case of Christiano vs. Christiano, 1945 decision, on page 144, a wife's misconduct after decree granting her absolute divorce is no ground for depriving her of alimony

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awarded her by such decree in absence of unusual circumstances. My comment, a divorced wife can live with another man but not marry him so that she can continue to receive alimony from the divorced husband. There is a case of Cornus vs. Cornus, 1955 decision, on page 145, even though divorced wife subsequently married another, judgment for alimony stands until it is judicially modified or vacated, my comment, the wife is not legally obligated to inform her husband of her remarriage and because of his ignorance the husband must continue to pay alimony. There is a case Elmer Vs. Elmer, 1952, decision, page 149; the section authorizing an award of alimony gives the court a wide discretion, my comment, the laws for other crimes limit the power of a court by fixing maximum sentences; the sentences under the current divorce law unlimited. Day Vs. Day, 1942, decision, page 150, a defendant is in no position to ask modification for the order of payment of alimony where he is in default of payment of the same and no sufficient excuse default, for such default appears, my comment, suppose a husband is ill and has no income but has resulting expenses, but because of ignorance does not contact the lawyer because, to whom he must pay a fee, or perhaps he thinks he will recover shortly but doesn't, and during this time the wife may be living comfortably without the alimony. Why does the law cruelly drive this man to destitution? A bankrupt is given a chance to start over again, the destitute husband can never recover; he'll never be able to wipe off his debt; the law is almost sadistic in its cruelty. There is the case of Therquonoto Vs. Therquonoto, 160 decision, pg. 152, in contempt proceedings for, against divorced husband who is in arrears of payment of alimony, the evidence, including evidence that subsequent through the divorce the wife's misconduct a man in New York resulted in birth of a child and that such man was already married, that fall to establish the husband's defense that the wife entered into a common law marriage under New York Law, my comment, if as a moral woman, the wife married another other than the divorced husband, the husband might have obtained relief but because she was an immoral woman the law rewarded her. Thank you very much.

REP. BINGHAM: Thank you.

8297 ATTY. GRABHART: I'm an attorney in Stamford. You have heard tonight a large amount of statements and opposition to the death penalty bill. I agree with those statements and don't think any purpose would be served by repeating those statements here but on the other hand I would like to call your attention to what would happen if this bill were to become law? First of all, I think the people of Conn. should

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for punishment or deterrents. Thank you.

REP. BINGHAM: Thank you.

LUCY JOHNSON: My name is Lucy Johnson, Democratic State Central Committee Woman from the 36th District but I am here speaking for myself. I am sorry to come to you so late in the evening, I would like to speak briefly on three of the bills before you tonight. Actually the first bill is at least eight bills; I hope you will disapprove all of the bills making the death penalty mandatory for certain HB 8291 specific crimes. The only possible excuse for this kind of bill is if the death penalty is, in truth, a better deterrent to the crime involved. Statistics do not prove this in any case I have hear of. Crime seems to rise with or without a death penalty and although I am most deeply concerned about all of the crimes mentioned, especially the assassination of police and the hyjacking of airplanes; I do not see that the assurance of execution will stop these crimes. Certainly the proponents of capital punishment are not completely convinced of the correctness or effectiveness of their point of view. They have not used the death penalty in Connecticut for many years, although they could have, even in the last 2 years, and of course, as has been pointed out by others, there is no suggestion that the full deterrent power of capital punishment be brought to bare by the holding of public execution. If capital punishment will not surely prevent these crimes, the penalty as attached to, there are too many other reasons why it should be abolished. I know others have listed these reasons to you many times this evening and I won't go through them again. I just urge you not to bring out any of these bills and perhaps consider a resolution or a bill that would effectively deny the use of capital punishment in the State. Although happily, I know very little of divorce and I can't comment on the substance of H.B. 8235, I will support its statement of purpose certainly and I would like to go on record as trusting Elizabeth Spalding to have covered the major points to be brought to your attention. Finally, I would like to support a full Shield Law for journalists. Like which ever founding father it was, he indicated that, who indicated that although we could get along with free press, he knew darned well that we couldn't get along without free press. I do believe, that is, I do not believe that we can afford to delineate the areas that newmen cannot step without going to jail; that is what a partial Shield Law does and I am sure that a partial shield law is as bad or worse than no Shield Law at all. Please give our press, journalists, full protection.

MR. MICHAEL GRANEY: I live in Stamford and a private citizen

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I should like to speak briefly on the proposed so-called No Fault Divorce Bill; I am amazed at the questions that has been asked by some of the proponents of this legislation, specifically that it will somehow solidify marriage, strengthen the family and marriage as an institution in our society, to me I think this is inconceivable, however, I will try to be brief, enough points have been made, with which I can clear this evening, but others are more eloquent, and I should like to quote, if I may, with, those lines from a letter to the Editor in last night's Stamford Advocate, February 28; which states, "it is axiomatic that any steps which ease the obtaining of divorce will lessen the deterrents to imprudent marriage and it is proper to ask at what point the social benefits, facilitating divorce will be outweighed by the social costs", and I think that is really the essential question we have to face. The gentlemen that wrote this went on to say, "but rubs, but what rubs the hardest is the notion that divorce should be labeled no fault, dual fault perhaps, or maybe equal fault, but no fault, ridiculous. It seems to me what we are encouraging is an attitude that is going to lessen the regard we have for marriage and seems to me just another step in the direction of totally pagan society that we seem to be headed for but if we are going to make it so simple to acquire a divorce, it seems evident to me that there will no longer be much of a deterrent to people that will prevent their entering into, rashly into marriage, what the writer of this letter calls an imprudent marriage. I don't think there is anything else I can say that will add to what has already been said and thank you.

REP. BINGHAM: Thank you.

MRS. ALVIN M. JOSEPHY, JR.: This statement is made on behalf of the Education and Legislative Committee of the Greenwich Democratic Women's Club: We urge that under no circumstances the death penalty be adopted by the Connecticut State Legislature in any form. It has been proven time and again that the death penalty is not a deterrent to serious crime. That it is applied randomly at best and discriminately at worst. The death penalty violates equal protection of laws because it is imposed almost exclusively against persons who are already victims of overt discrimination in the sentencing process or who are unable to afford expert and dedicated legal counsel. Thank you.

MARY STACKPOLE: My name is Mary Stackpole of New Canaan. I speak as a private citizen against Bill #8297 or any other bill legalizing the death penalty for any crime. I have

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Presiding: Senator Richard S. Scalo

Time: 7:30 p.m.

MEMBERS PRESENT: REPRESENTATIVES: Bingham, Smyth, Crouch, Tedesco, Burnham, Freedman, DeMerell, Sullivan, Argazzi, Sullivan, Nevas, Fuse, Newman, Meskill, Bard, Healey, Liskov, Morris, Willard, Dooley, Meiditz, Ritter, Webber, Stolberg, Klebanoff.  
SENATORS: Guida, Scalo, Costello, Page, Gormley, Finney, Petroni, Fauliso, Smith, Murphy, Sullivan.

REPRESENTATIVE MORTON: Thank you, Senator. Gentlemen, my name is Margaret Morton, I'm Rep. from the 129th District, in Bridgeport. I would like to speak on Bill 8297, which is AN ACT CONCERNING THE DEATH PENALTY. I would simply like to state, Gentlemen, that I am opposed to the Death Penalty in any form. I do not believe that the death penalty if inacted would be a deterrent to those who would commit murder. I do not believe it would show progress in the great State of Connecticut. I believe it is barbaric and I believe that we should definitely not pass a bill that would throw us back rather than bring us forward. Gentlemen, I hope that you will find it to be your hearts not to give this bill a joint favorable, from your Committee, I hope it will die there. Thank you for allowing me this opportunity.

SENATOR SCALO: Thank you very much, Rep. Morton. Are there any other Legislators who wish to address the Committee at this time? If not rather than wait for the 8:00 portion of the General Public Meeting to open we will continue right now with the list of speakers, for those people who wish to speak there is a list at the table here and they can sign up in order and in the order of their signing they will be called to speak. The First Speaker is Atty. Abraham I Gordon.

ATTY. GORDON: Senators and Representatives, I appear to speak in favor of Bill 8235 being AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE. As an active Attorney, an active practitioner in the Divorce Courts of this State all too often I have seen as have so many of the other attorneys a great deal of effort unnecessarily voiced upon litigation in the domestic situation in an effort to qualify for grounds and in effort to bargain with each other with regard to grounds when in fact the real problem that exists is whether or not there is a true and viable marriage or whether or not that marriage should be desolved. I speak in favor of the bill as it stands although I do have some thoughts as to certain changes which I will send directly to the Committee. Particularly do I encourage the bill with regard to the section with regard to conciliation. Which is section 6 as you have it in the act at the present time. A number of times so many

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times we see people come into the offices, all Lawyers see this, very anxious to start a divorce action when in fact they run in the heat of an argument and through the efforts of counsel quite often they marriages can be resolved and reconciled. I think a mandatory conciliation session, although we certainly can't mandate conciliation or reconciliation is good, but concerns me here and I ask that you draw attention to this is who is going to be the conciliator on what standards is the court going to develop for this and I will just say that there should be a section in here that the judges of the court should come up with some standards for private conciliators but people various walks of life whether they be a psychiatrist, a social worker, a marriage counselor, an attorney, a theologian, but they should develop certain standards with regard to these conciliators and then have an approved list of conciliators so that the people can go to that approved list of conciliators all of whom I think should be private individuals and not officers of the court.

I am glad that you have kept within this framework of this statute instances whereby the children of the marriage will have their own counsel particularly with regard to agreements. I am concerned as are so many of my "Brothers" that so often the two parties the two litigants do the bargaining with regard to the children and in fact the interest of the children are not always served and I commend you with regard to that section.

One final thought I ask that you if possible promulgate it has nothing to do with the bill itself. It's the language that's used referring to this as "No-Fault Divorce". I think this is a holdover from the concept of negligence actions where we talk about "No-Fault Insurance" and I don't think that this a "No-Fault Divorce" or that there should be "No-Fault Divorce". Divorce exists because of fault and the fault is that there is no marriage, it's a marriage that's not savable or salvagable and I think perhaps if we can develop a different nomenclature for this bill and not refer to it as "No-Fault" I think that it would get a clearer understanding in the ears of the public. On the whole the bill is fine, I will send you my comments directly with regard to certain sections that I think might be changed, and I recommend they commend this bill for favorable action by your Committee. I thank you.

REPRESENTATIVE SULLIVAN: Mr. Gordon, would you look at paragraph C section 7 of this bill that you were advocating? That's the section that reads "In the case of a petition seeking dissolution of a marriage if the court after hearing in

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consideration of relevant factors finds little prospect of a reconciliation between the spouses and that the legitimate object of matrimony between the spouses has been destroyed it shall it doesn't say may, it says it shall conclude that the marriage has broken down irretrievably." Now do you feel that that meets the Constitutional standards that we must set up in any law? Can you tell me for instances what "finds little prospect of a reconciliation can be defined as for a court to act on?"

ATTY. GORDON: Rep. Sullivan, as happens so often in legislation and I'm sure that you, your eyes look weary now looking over the bills that have been submitted this year, so often language is used which is general and broad in scope and perhaps unnecessarily so and perhaps the language here can be defined, I didn't prepare this bill, this was prepared by your Committee. The saving grace that it has with regard to that section is the fact that it leaves this discretion in the hands of a judge someone that's presumably highly skilled and qualified to make these very subjective determinations. I would not be concerned whether the language there said shall or may I think that the question that you have raised is whether or not it should be discretionary with the judge, I would agree with you Mr. Sullivan, because I think that at the last analysis the court, the judge sitting as the court certainly should have this discretion and I certainly would see no objection to changing this shall to may and I would be with you in leaving this discretion with the court if that was your point, Sir.

SENATOR SCALO: Are there any further questions from the Committee?  
Thank you, Mr. Gordon. Leonard E. Gilbert.

MR. GILBERT: Members of the Judiciary Committee, I am Leonard E. Gilbert, managing editor of the Bridgeport Post, Telegram, and the Sunday Post, The Post Publishing Company newspapers. I represent those newspapers and their news staffs in offering to your committee my views on the various Legislative Bills, now in committee which would affect the free flow of information to journalists in Connecticut and the need for a state law to reinforce in Connecticut the constitutional guarantee of a free press.

Also, I represent the Connecticut Council on Freedom of Information, a newspaper-radio-television organization of which I am a member. Also, my appearance before your committee is as a spokesman at this session for the Legislative Committee of the Connecticut Daily Newspaper Association of which The Post and The Telegram are members.

I have been a newspaper reporter, editor and news executive

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with The Post Publishing Company for span of over 40 years, the last 11 in my present position of managing editor.

I can testify candidly that the need for an absolute privilege of protecting news sources is vital to the free press which this city and this state and this country enjoy, in contrast to the controlled publications in many other nations.

Never before has the need for opening up news sources been so great and never before have the efforts to close off the news sources been pressed by so many. And never before have so many efforts been made in the courts to seize upon opportunities to use the work of news reporters and the materials in newspaper files in a manner which was undreamed of a few years ago.

The various bills on freedom of information in the Connecticut Legislature and in the national Congress have become known as "Shield Laws". In reality, the proposals do not have as their main purpose the protection of news gatherers engaged in hiding horrible crimes. The main purpose is to guarantee beyond a doubt that news sources will continue to be available to reporters, to guarantee that the public's right to know will be served to the fullest.

Newspaper editors, some of whose staffs have won Pulitzer Prizes for their reporting, have been testifying during the past few days in Washington on bills that would guarantee the right of confidentiality to reporters on a Federal level. These editors, unanimously, have found that news sources are drying up since the Supreme Court decision of last year in the Caldwell case, a decision in which the justices said the remedy for any jeopardy faced by the press lies in the Congress and in the State Legislatures.

While this is a national issue, it is also vital that the protection of State law bolster and guarantee a free press in Connecticut.

The Caldwell decision, a 5 to 4 verdict, was the first breach in a precious right accorded to the people by the First Amendment of the U.S. Constitution. The Connecticut Legislature can close that breach in our state by adopting an absolute privilege law, a law to prohibit the subpoenaing of news gatherers for the purpose of learning the sources of confidential information.

Lest you think that the recent jailing of reporters in New Jersey and California seems a distant issue, let me inform you that right now a reporter for the Post Publishing Company

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is under subpoena, and has been under subpoena and in jeopardy for several months, as an effort is being made to obtain from him the source of one bit of information which appeared in a news story. His case is dormant at present but it can be reopened at any time.

I am aware there is sentiment among legislators and among some in Congress against an absolute privilege. And in fact there is a division among newspaper people. Some newsmen feel that a qualified privilege is no privilege at all, that failing in an absolute privilege it would be better to continue to depend upon on-going interpretations of the First Amendment.

Newspapers may not have made a good case for themselves in presenting their issue to the public. I know that The Post Publishing Company papers have not carried on a campaign to sway public opinion or legislative opinion. Yet a Gallup Poll in November, 1972 showed that 57 per cent of the American people believe a reporter should not have to divulge sources of confidential information. And in the breakdown of the poll statistics, those with college background showed 68 per cent favoring this privilege for reporters.

The Connecticut Council on Freedom of Information has studied the language of the various bills before the State Legislature. The Council suggests that in the definitions identifying newsgathers the word "fulltime" be deleted from any bill that finally reaches the floor of the Legislature. Many news organizations have capable personnel who for one reason or another are not considered to be fulltime employees. I can point out to you that the dean of the State Capitol press corps, former president of the Laurel Club, respected for his 50 years of service in the news field, Bill Walsh of the Post-Telegram, now works a parttime schedule. It would be unthinkable that any law affecting the press should exclude journalists of his category.

The Connecticut Daily Newspaper Association has drafted its own version of a bill pertaining to sources of information, closely paralleling H.B. 8107. I will not read it here, but I do submit it to your committee as an extension of the remarks I have made here tonight. Also as an extension of my remarks I attach to the text a memorandum drawn by counsel for the Connecticut Daily Newspaper Association, explaining in more precise terms the reasons for proposed changes in the language of H.B. 8107. I thank you and the groups I represent thank you, for listening to my comments.

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MR. RUTKIN: Good evening. My name is Arnold Rutkin, I'm an Attorney in Bridgeport. I came to speak about S.B. 8235. But before I get into that I must say that with regard to the establishment of a Chief Assistant Attorney, if someone appeared to discuss that in the context of us being from Fairfield County and as all of you know I don't envy your decision on that. Talking to lawyers around town, and not because Joe Gromley is here, we have a big problem because if this office is established somehow we believe that they'll pick the best man and unfortunately they'll probably pick him. And then we lose the State's Attorney in the State. So you got a very hard decision to make.

However, I am appearing before you tonight because as a lawyer I spend more time doing divorce work than I do criminal work. In hope that the analysis that I make of the divorce situation having this bill and the bill 2 years ago which is similar will really be of some value to you in your ultimate deliberation. Two years ago when this bill first came up I was in favor of it. And I spoke to various groups in favor of it. However, two years have passed, a State and National consciousness about women's rights and an 18 year old amendment have been passed both things convincing me that this bill shouldn't pass, in its present form and standing alone. And shouldn't infer from my position that I am not, that I am inamored with the situation, I am not. And I would hope to make some suggestions about ways to improve this system as we see it now. But in any event this law standing alone will not improve it.

There are some who oppose this bill because they say it will further add to the deterioration of the family unit. I must say that I'm not convinced with that argument and that the increase in divorces in recent years while frightening I don't think it's particularly has any relationship to a quicky divorce rather than "no-fault" divorce. Yet I wonder what affect the fast divorce or quicky divorce will have in marginal cases. And what about parental obligations to children? A divorced family experiences financial stress, unequal in a family that is intact. However, you feel about the moral issue or social issue of divorce that of course will be a personal decision for you.

However, Today in Connecticut people can get a fast divorce. Just as fast as the proposed bill if they want to. People have learned today that the stigma of divorce has all but disappeared. Except for a shortage of judges

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which causes a huge divorce calendar to be heard only two days a week, in Bridgeport, in Fairfield County, our present system could be just as fast. So why then do divorce cases take so long? That is the sole question to be answered. The present bill is offered by a proponent to speed things up and to eliminate fighting over the grounds. The reason which all of you know who have ever done any divorce work for contested cases is not bitter feels caused by adultery or cruelty or habitual intemperance. At first of course that's the relevant issue but after the people realize a divorce is eminent then money and money alone is the sole issue.

A woman today if she is to get alimony and child support gets a dollar amount sometimes a percentage of the husbands gross or net income as the case may be. In most cases she is not working outside of the home if there are small minor children. Yet when it comes time to share the assets which she helps accumulate by being a wife, a mother, a maid, a cook she's not entitled to any. The new bill say the judge can order part of the capital assets that but the judges could always do that now, directly or indirectly, and very seldom do.

For a non working wife will lose the leverage she has now to get a portion of the money she has helped to accumulate. A woman who is having marital problems will have to decide whether she should continue to stay at home and carry on her equally important job of raising a family vs. going out to work so she can save some money for herself and her children for her future. The 18 year old statute when it was passed despite all the investigation and hearings that was done has turned out to be a horrendous effect on the divorce law. And particularly to women. Today, maybe 500 years it will change but today at least, women are assumed to be the one's who are going to bring up the children. And in most cases don't go back to work or don't work until the children are raised.

Now at age 18 a woman is faced with this problem. The husband no longer has to support the children. Many of us want our kids to finish high school and perhaps go to college and they are not self sufficient at that time. True some can work and earn part of their tuition some can't. But the woman is still faced with the moral obligation to keep her home intact letting the kids live there on week-ends or school holidays or summertimes. She still has the obligation but the husband doesn't. He goes off and does what he cares to. So the combination

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of the 18 year old statute unfortunately not exempting these marital situations and this new law will just create further burden on the wife who already is the behind the "eight ball" in Connecticut, much to, unfortunately the passing of that 18 year old law.

The issue of fault is of course at the crux of this bill. And I have thought about it deeply and I can't understand why fault shouldn't be a part of this bill in some way. I might add parenthetically that this afternoon I had a debate if you will with a proponent of this bill who in fact helped draft it a lawyer who is on the family law committee of the Connecticut Bar Association. And at the end of it after not convincing me or me not convincing him notwithstanding Bob McAmerney who will talk to you later, he said to me you know the one thing that I can't fix in my mind about the bill, I'm very much in favor of and helped draft is that it seems to me that there should be something in the bill with regard to fault. There should be some means of the wife having some protection over the assets or alimony, or the reverse as the case maybe. But under the present bill .....

The wife or husband as the case maybe may philander assets then he or she may walk into the courts and just say it doesn't matter whose fault it was I spent all this money, I put us into debt, we entitled to a divorce or I'm entitled to a divorce. And my wife, yes, she maybe entitled to some alimony maybe you'll give her the house but all the things that I did before or all the money that I blew, all the drinking that I do to help deplete the money that we had, you can't hold that against me, and indeed the judge won't even know about. So I would ask that if for some reason this bill is passed that something is put in so the judge can look into this circumstances regarding that situation.

However, hoping that this bill won't pass I do have a number of suggestions. One, more judges. If what we're looking for is a speedy divorce, the new statute could end up slower, six months then vs. 3 months now. If you have more judges there won't be any such thing as levelage in contested divorce cases as far as the time element is concerned. Add incompatibility as a grounds of divorce under our present law. That will take the smear of a lot of the adultery business out but will leave the fault aspect into it, the person who is at fault for this incompatibility.

Another suggestion which I know will never be passed but

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pass this "No-Fault" bill but add community property to our law. So that a woman has her fair share of the assets which indeed she did help to accumulate. Temper the law with how long the marriage is, how many children there are and so on. I sure the men in the Legislature will love that. Or recognize specifically in the bill the value of the woman's work, mainly, her mothering and her housework so that the judge in making an award of capital assets can take that into account. The woman today who works can get half of the assets without any problem because she can prove that she went out and earned money. But the woman who stayed home and did cooking and mothering and what not and didn't go out to work, that husband who doesn't have to pay for a babysitter or a cook or laundress and all the things that a woman does do. She's behind the "eightball" when it comes to sharing the assets now and she still will be under that bill.

Perhaps, raise the three and six month ratio to six and twelve months, thereby, still perhaps giving these women a little bit more leverage than they have under that bill. Change the 18 year old statute some how in this bill. It's been discussed and apparently can be done. This bill as I have analyzed it and as regretfully as I must say I have to oppose it because in my heart I agree with the people who have spoken in favor of the bill. I know that there are hard times but there are hard times anyway in a divorce family. The fact that you can get a divorce quicker or faster or slower doesn't change the feelings, doesn't change the bitterness. The bill is obviously anti-woman and anti-children, coupled with the 18 year old statute. Thank you.

REPRESENTATIVE TEDESKO: In your, initially in your presentation I think you said Mr. Rutkin, people can still get "quicky" divorces how can they still get a "quicky" divorce?

MR. RUTKIN: If they agree.

REPRESENTATIVE TEDESKO: You mean but going out of the State or by getting it here?

MR. RUTKIN: In Connecticut.

REPRESENTATIVE TEDESKO: You mean by agreement of parties there is no such thing as agreement of parties in the State of Connecticut?

MR. RUTKIN: No, what I mean by that is that there is a three month period now after the institution of a divorce. Two people

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well know when they're not getting along. They either by reason of adultery or intolerable cruelty which as you can be either physical or mental the fact always comes down to money. Will he pay me, if it is a woman enough? Will she not take any money, if it's a man? So the fact that there are grounds or not grounds as you know as a practicing attorney really have no part of the divorce law today. So then you might say well then why aren't you in favor of the bill? And the sole thing that our present law has that the new law doesn't have is leverage. And as distasteful as that may seem it's necessary.

REPRESENTATIVE TEDESKO: So apparently the tenor of your consideration is that you are more concerned with the economic implications as to opposed to fault of the parties.

MR. RUTKIN: Oh, clearly. As I said earlier I would be in favor of the bill if somehow we could secure the financial wellbeing of the wife and the child. And this bill does not do it.

SENATOR SCALO: Thank you, Mr. Rutkin. And just for the record I want to indicate that I received a statement, a prepared statement of Howard B. Jacobson, Chairman of the Journalism Department of the University of Bridgeport, on bills number 8107 and 1647 concerning the proposed "Shield Laws". He is opposed to these laws as he is concerned with the creation of an absolute privilege for newsmen.

We also received a written statement from Atty. Gary Friedman who again concerned himself with H.B. 8107 and 1647 again speaking in favor of a "Shield Law".

The next speaker is Mr. Jay Nancarrow, Mr. Nancarrow couldn't wait. Mr. Robert Mc Anerney .

MR. MC ANERNEY: My name is Robert McAnerney, of the law firm of McAnerney, Lyon & Milare, in Darien, Connecticut. Gentlemen, I would like to reaffirm Judge Tellalian's comments with respect to his commendation of the Committee and affording the public the opportunity to be heard at these various meetings throughout the State. I would like to address myself to two specific bills only. Namely Committee bill 8269 and Committee bill 8235.

One the first bill, Committee bill 8269 I am speaking for the Connecticut Bar Association and in particular for its Board of Governors. The Board of Governors of the Connecticut Bar Association has issued a brief statement which I would like to read to you and then I have copies available in

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SENATE

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SENATOR ROME:

I move for suspension of the rules for immediate transmittal to the House.

THE CHAIR:

Is there any objection? Hearing none, the rules will be suspended for that purpose.

SENATOR ROME:

May we now proceed while we're still fresh and able to debate, to CALENDAR NO. 331. AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE.

THE CHAIR:

What page? I think we all better disqualify ourselves. Page 4. Senator Guidera. Will you read it in, Mr. Clerk?

THE CLERK:

CALENDAR NO. 331. FILE NO. 271. SUBSTITUTE FOR HOUSE BILL NO. 8235. AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE. (Amended by House Amendment Schedules A, D, E, G).

Favorable report of the committee on JUDICIARY.

THE CHAIR:

Senator Guidera.

SENATOR GUIDERA:

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

THE CHAIR:

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

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SENATOR GUIDERA:

Mr. President, will the Clerk please call the amendments in order?

THE CHAIR:

It was my understanding that this is as amended by the House Amendment. Are these amendments that are before the Senate that you're talking about ?

SENATOR GUIDERA:

No, Mr. President, these are each individual House amendments that I would like to take up individually.

THE CHAIR:

The Chair must think a minute.

Senator Guidera, it's the Chair's judgment, that you're out of order. The House Amendments are part of the bill before us. They cannot be taken up individually unless there's an amendment offered for that purpose here. One at a time --

Senator Guidera, would you sit down while Senator Rome is ---well, the Chair cannot carry on with more than one Senator standing, because it's confusing. Senator Rome.

SENATOR ROME:

Mr. President, may we Pass Retain on this matter, and may we take up now --

THE CHAIR:

What happened? Were you shot down so fast, Senator Guidera? We're going to pass this for the time being or ---

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SENATOR ROME:

May we Pass Retaining? And may we take up Calendar No. 320.  
An act concerning a council on human services.

THE CHAIR:

So ordered, if there's no objection.

THE CLERK:

CALENDAR NO. 320. FILE NO. 257. SUBSTITUTE FOR SENATE  
BILL NO. 1733. AN ACT CONCERNING A COUNCIL ON HUMAN SERVICES.

Favorable report of the Committee on CORRECTIONS, WELFARE  
AND HUMANE INSTITUTIONS.

THE CHAIR:

Senator Hellier.

SENATOR HELLIER:

Mr. President -

THE CHAIR:

May we have a little order, please. Thank you.

Senator Rome, would you come and enlighten the Chair, please,  
and Senator Guidera.

Senator Hellier, you may proceed.

SENATOR HELLIER:

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

THE CHAIR:

The question is on acceptance and passage of the bill.

Will you remark?

THE CHAIR:

Hearing no objections, so ordered.

SENATOR GUIDERA:

Mr. President, will the Clerk call Calendar #331?

THE CHAIR:

Calendar #331, Mr. Clerk.

THE CLERK:

#331 Substitute for the House Bill #8235. Refer to Calendar. File # 271,206, and 142. Clerk has amendment schedule A.

THE CHAIR:

Senator Guidera

SENATOR GUIDERA:

Mr. President, I move adoption of the committee's favorable report in passage of the bill.

THE CHAIR:

Will you remark?

SENATOR GUIDERA:

Yes, Will the Clerk call Senate A, Please?

THE CHAIR:

Senate A please read the amendment.

CLERK:

Amendment offered by Senator Guidera of the 26th District. The substitute House Bill #8235 File #271, Strike out House Amendment schedule A,D,E, and G.

THE CHAIR:

I understand that this will return the bill to it's original

form, am I correct?

SENATOR GUIDERA:

That's correct, Mr. President. Mr. President, in speaking to the amendment, I wish to speak to the two bills that are in our files. The original bill as it came out of the Judiciary Committee is File 142. The bill as it stands now, with House amendment A, D, E, and G is in file 271. Mr. President, the bill that you see in file 142 and the one that, I hope, that we will return to today in the Senate, is one that is the product of 7 years, 8 years of work by the family law section of Connecticut Bar Association in conjunction with other interested persons and groups within the Community. It recognizes a new change and a new direction in the divorce laws in the State of Connecticut. Under present law, Mr. President, there are some 9 grounds for divorce. Ranging, from adultery to incarceration in a Mental Institution for a period of time, intolerable cruelty, I guess, is probably the most used grounds in our courts. The bill that you see in file 142 and that some of the members will return us to that bill, provides for only one ground of divorce. The other grounds are eliminated. That ground is the irretrievable break down of the marriage. Under the bill, Mr. President, an individual will not file a complaint. A Plaintiff would not file a complaint as he does under the present law, he would file a petition of inquiry with the court, asking the court to look into whether or not the divorce the marriage is broken down irretrievably. I might add, at this point, that some 90% of our

cases in the divorce courts today are uncontested matters. In, some areas, 95% of them. This bill in file 142 will, provide that the party will come in, file his petition and if either of the parties so requested, there would be a counselor appointed, who, would look into whether or not the marriage should be actually broken down or not. If, after a period of time, the counsellor finds that it is not broken down, the court would then make a determination in it's own judgement as to whether or not it is broken down. If it has broken down, then a decree of disillusion of marriage not divorce but, a disillusion of marriage would enter. We feel, Mr. President, that the original bill file 142 is one which eliminate the sometimes perjury in our courts. At least, it will eliminate the gross exaggeration by witnesses at the Plaintiff's or defendants bring in . The disillusion of the marriage cannot be decreed, unless or until the questions of alimony, support payments, property settlements and custody of the children, if, there are any or settled. The bill also provides that the court may, not shall, appoint council for the children to the marriage and it would be his function to look into whether or not the marriage has actually broken down irretrievably. The attorney for the child, for example, could argue that the marriage has not been broken down irretrievably. Additionally, that attorney would look after the rights of the minor children of the marriage and it would, make certain that their future is as secure as possible. The bill, which, you see in file 271, is an attempt, in my opinion, to

compromise the basic concept of the irretrievable break down of the marriage. It retains all of the present grounds for a divorce and adds two more. One is irretrievable break down of the marriage and the second is a new one, which was not contemplated by the judiciary committee nor the family law section of the bar association and that is, a separation of a period of 18 months. On your desks, every Senator's desk, there should be an analysis of file 271, I believe its title Analysis of 206 but, its a reference to file 271. It's just as applicable. You will not 7 major objections to the bill as, it appears in file 271. The main objection is #5, Section 7, deals with the granting of the divorce decree. The way this section is drafted, chaos, in the courts could develop. It is not at all clear, what the courts should do, whether it's both, a complaint or a cross complaint seeking divorce. If, a wife brings a complaint on adultery, and, the husband cross-complaints on irretrievable marriage break down and the court finds, that both grounds are established, to Which party is the divorce granted? Under this section, can a court, deny divorce to both parties, if each establishes ground? This raises the whole question of the status of the traditional defences of the recrimination and condemnation. Also, soes it make a difference so far as award of alimony is concerned? Which pary obtains the divorce? Under the present law, the party against whom the decree is added is precluded from receiving alimony, perhaps, this section contemplates some sort of comparative fault criterion for grant-

ing a divorce where the court, after hearing the party, would grant a decree to one least at fault. If comparative fault is contemplated it is certainly unclear. You will note on Section 19, that the courts inpowered to make a property settlement/only "pursuant to a complaint." Does this mean, that a similar order cannot be entered or a cross-complaint? This seems like an obvious oversightbut if passed in this form it could lead to a race of the parties to become plaintiffs. One of the problems that's being pointed out here, Mr. President, very clearly is that if the plaintiff comes in and attempts to get a divorce and we go back to the word divorce and not disillusionment of marriage under the original bill and the claim is on the basis of irretrievable breakdown of the marriage. Let's say the plaintiff is a wife. The husband comes in and he cross-complains on the grounds of adultery, it really doesn't leave the court any room to decide how to handle the matter. The bill is entirely unclear. Let me just quote a little bit from a letter sent to me yesterday by Attorney Robert M. McEnnerry, the former President and now, Vice-President of the Family Law Section of the Bar Association, and the one individual who has probably spent more time drafting this legislation than any other. In paragraph 2, he says, "May I reiterate that it is the position of the Connecticut Bar Association that we would rather have nothing that the distorted version of our bill that was passed last week by the House." A similar position has also been taken by a group by the name of Parents Without Partners. They have

withdrawn their support for File 271. We think, Mr. President, I think and I know many senators think, that we should make an attempt to pass the best kind of legislation that we can come up with. We think that File 142 represents the best kind of legislation that we can come up with; that 271, although it is, in some people's minds, an attempt towards compromise, is not a bill we would rather have over the present law. And for that reason, Mr. President, I have offered the amendment to strike the House amendments. I think that you have to either go with this bill as originally drafted or to forget the concept entirely. There are some who say if we take File 271 now, then in the '74 session we can delete out the other grounds for divorce. I just don't think that's going to happen. If we can't get the original bill passed now, we're not going to get it passed in the 1973-74 session, and I think that we ought to pass a bill that we think is best. I want to point out one last thing, If there's anybody in this room who thinks that File 142 if passed will make Connecticut a divorce-mill, they're absolutely wrong. What makes a state a divorce-mill is short periods of residency requirement. Nevada, for example, has a 6 week waiting requirement. Other jurisdictions-it used to be in Mexico and I guess now in Haiti-you practically have to show upon a plane and you're a resident of that jurisdiction. We retain our 1 year residency requirement, and for that reason Connecticut, will not become a divorce bill. And I hope that you will support this amendment and send the bill back to a Conference Committee so that we

can possibly come out with the best bill possible.

THE CHAIR:

Senator Lenge

SENATOR LENGE

Mr. President, through you a question to Senator Guidera. Senator Guidera, in examining your amendment which deletes House Amendments schedule A, D, E and G, is it not true that "D" makes reference to Section 45162 which sets forth certain grounds under which a will is revoked, among them marriage, the birth or adoption of a minor child, divorce and now adds the words "disillusion of marriage."? And my question is--is that not a technical amendment? It might properly remain.

THE CHAIR:

Senator Guidera

SENATOR GUIDERA:

Mr. President, through you to Senator Lenge, the same question was asked by the legal staff that we have in the Senate Majority Caucus. The answer to that is that in no place in the bill should the word "divorce" or "divorced" appear. The word divorced appears in line 17 of that amendment. If we go back to the original bill, the bill will only speak of the "disillusion of marriage" and that is the proper way to proceed on the bill.

THE CHAIR:

Senator Lenge

SENATOR LENGE:

Mr. President, through you again. An examination of the a-

amendment discloses that it added the word "disillusion of marriage" and that if we add to delete that amendment, we would be deleting the words "disillusion of marriage" and in fact restoring or retaining the one word divorce.

THE CHAIR:

Will you remark further? Senator Lenge.

SENATOR LENGE:

Mr. President, I rise to support, with the exception until we get a clarification of amendment B, the motion to delete the House amendments and restore the bill to it's original state. I think that all of us have had extensive time to study and decide on the merits of this proposal. It is sweeping. It is necessary. And it corrects a very serious situation that exists in the presentation and "trial" Questionable in our court system. It adds integrity to a situation that has bred an intolerable situation in the courts. Already the Chairman of the Judiciary Committee has stressed the merits. I would like to stress an area that he has not stressed at this point, and that is the needs of the children of the marriage and, truly, of the regrettable situation I think that perhaps the overriding emotional situation in the disillusion of a marriage involves the education, the care, the need and the welfare of minor children. And all too often, Mr. President, that has fallen to the lowest ramp of matters to be considered. This bill --this proposal--would set forth a procedure where the needs of the minor children or child could be represented by Council and , indeed, Council for the minor

children would participate in the issue itself and, indeed, might ask conciliation aspects that are provided for in this bill if Council for the child and minor children felt that the appropriate measure to be taken. I think that one of the most heart-breaking situations is the so-called "uncontested divorce" where the children oftentimes at an age approaching the early teens are asked to come in to testify or to attempt to put before the court what the emotional stress they are under and the conditions that they think are best for them and indeed to testify against one or the other of the spouses in order to meet the test of presenting through so-called impartial witnesses, the grounds, the establishment of the grounds. It is called a "non-adversary proceeding." Nevertheless, it requires that the evidence be presented to the court in an uncontested manner and it is all too tortured and too structured and often all untrue. In short, the feature that I am emphasizing here today is that situation which has made the children the wedge--infact, the battering ramp for one or the other vindictive spouses to reach his mate or former mate-- would come to an end under this proceeding. The bill is enlightened; the bill is far-reaching; and the bill is necessary.

THE CHAIR:

Senator Powanda?

SENATOR POWANDA:

I rise to support the amendment also. I think the Connecticut Bar Association has clearly indicated it's reasons for rejecting the bill as amended by these. I think that since they were the

original proponents of the "No-Fault" concept, are now rejecting the bill as amended, it clearly indicates that the bill has been substantially changed it's amended form from what the originally proposed. One might question why the bar association accepts a "No-Fault" concept. A position which could seriously effect the income of certain members of the bar. I think the members of the bar realize the difficult position both parties are placed in a divorce action and the members of the bar place their concern for the parties above the income potential and I commend them for it. The House amendments maintain an adversary position between the husband and the wife, positions which, require that both parties drag their dirty laundry before the court to make their case. I'd like to quote from a book on divorce, "Subject Divorce" by Attorney Paul Helder, in his conclusion he stated, "People going to divorce lawyer are mostly bitter and revengeful, filled with greed, vengeance, pettyness, adults fighting over the most trivial things, women hurting men, even when they can gain nothing by doing so, people ready to sacrifice their children to satisfy certain emotional needs are using their children as tools against the other spouse. A loved one dies, the grief is acute at first, then it fades and an adjustment is made. Not so with a divorce, it seems to get worse and worse as the litigation drags on and on. Friends are ripped apart, the whole fabric of life is torn and unlike any other stressed situation, it is a super imposition of laws of man legislating the human heart." I think that's a very good sum-

mary, Mr. President. It indicates the reason why I support the "No-Fault" concept with the elimination of the advisory position and I strongly support the amendment.

THE CHAIR:

Senator Guidera?

SENATOR GUIDERA:

Mr. President, it appears after council at the matter that Senator Lenge's point is well taken and I would ask that the Clerk strike "d" from the amendment

THE CHAIR:

"D" as in David.

SENATOR GUIDERA:

Yes, Mr. President.

THE CHAIR:

Will the Clerk please strike "D" as in David from the amendment. I'll rule it in order and we can proceed with the debate on the amendment.

THE CHAIR:

Will the Clerk please announce a roll-call vote will be taken in the Senate on Senate Amendments Schedule "A"?

CLERK:

There will be an immediate roll-call vote taken in the Senate.  
There will be an immediate roll-call vote taken in the Senate.

THE CHAIR:

I think, if, my memory is right, somebody better order that-ask for a roll-call vote.Senator Guidera?

SENATOR GUIDERA:

Mr. President, I move that when the vote is taken, it be taken by roll-call.

THE CHAIR:

All those in favor signify by saying "aye" oppose "nay" More than 20% having said, when the vote is taking, it shall be by roll-call. Will you please announce once again a roll-call vote in the Senate and then proceed to call the roll.

CLERK:

There will be an immediate roll-call vote taken in the Senate.

THE CHAIR:

Please proceed.

CLERK:

Senator Fauliso	Yes	
Senator Smith (Wilber)	Yes	
Senator Burke		ABS
Senator Odegard	No	
Senator Lenge	Yes	
Senator Zisk	Yes	
Senator Alfano	No	
Senator Rome	No	
Senator Truex	Yes	
Senator Lieberman	Yes	
Senator Ciarlone	Yes	
Senator Page	Yes	
Senator Zajac	Yes	
Senator Winthrop Smith	Yes	
Senator Cutillo	No	
Senator Sullivan	No	
Senator Powanda	Yes	
Senator Hellier	Yes	
Senator Murphy	Yes	
Senator Cashman	Yes	
Senator Gunther	Yes	
Senator Scalo	Yes	
Senator Caldwell	Yes	
Senator Petroni	Yes	

Senator Lyons	Yes	
Senator Guidera	Yes	
Senator Strada	Yes	
Senator Gormley	Yes	
Senator Berry	Yes	
Senator Power	Yes	
Senator Dinielli	Yes	
Senator Bozzuto	Yes	
Senator Costello		ABS
Senator DeNardis	Yes	
Senator Carruthers	Yes	
Senator Finney	No	

THE CHAIR:

Results of the Roll-Call Senate Amendment on Senate "A"

Whole Number Voting	34
Necessary for passage	18
Those voting Yea	28
Those voting Nay	6
Those voting and not voting	2

The amendment is adopted.

THE CHAIR:

Senator Guidera

SENATOR GUIDERA:

Mr. President, I think the bill has been discussed fully and I would simply at this time, Renew my motion for acceptance of Joint Committee's favorable report as amended and passage of the bill.

THE CHAIR:

Will you remark further?

SENATOR GUIDERA:

Mr. President, may I add that when the vote be taken , it be taken by Roll-Call vote.

THE CHAIR:

Question on a Roll-Call vote. All those in favor signify by saying "aye" oppose "nay" more than 20% having assented, the votes when taken shall be by Roll-Call.

SENATOR ROME:

Mr. President, the amendment was carefully debated and I would hope that you would rule it as technical in nature.

THE CHAIR:

Thank you, Senator. The amendment is ruled technical in nature. I think everyone understands the purport of the amendment. Well, hearing no further remarks, I can't believe Senator Rome bought the whole thing.

SENATOR ROME:

Mr. President, I feel I have to make a very brief remark in view of the fact that I voted "no" on the amendments. I would have voted 'no' on the bill that was before us too and my reason is that I feel that, as already indicated by Senator Guidera, in the State of Connecticut, approximately 95% of the cases that come before the court are already uncontested cases. I think That Connecticut divorce laws presently as they exist are probably the most liberal divorce laws in the State of Connecticut I can see the necessity of some change but not such drastic change that has been proposed in the bill that we are going to vote on and the bill that was before us. I would here liked to have seen a change which would have permitted the divorce between two parties when the marriage was irretrievable as the addition-

al grounds for divorce, without the great substantive change that has been made in the whole legislation before us. On that basis, I voted against the amendment and I intend to vote against this bill. I think I would rather have the divorce laws in existence in this State as they are, than see the drastic changes that are being made that would involve tremendous administrative problems and which would not accomplish the purpose that the people who want this particular bill have in mind.

THE CHAIR:

The Clerk please announce the Roll-Call vote in the Senate.

CLERK:

There will be an immediate Roll-Call vote in the Senate.

There will be an immediate Roll-Call vote in the Senate.

THE CHAIR:

Proceed.

CLERK:

Senator Fauliso	Yes	
Senator Wilber Smith	Yes	
Senator Burke		ABS
Senator Odegard	No	
Senator Lenge	Yes	
Senator Zisk	Yes	
Senator Alfano	No	
Senator Rome	Yes	
Senator Truex	Yes	
Senator Lieberman	Yes	
Senator Ciarlone	Yes	
Senator Page	Yes	
Senator Zajac	Yes	
Senator Winthrop Smith	Yes	
Senator Cutillo	No	
Senator Sullivan	No	
Senator Powanda	Yes	
Senator Hellier	Yes	
Senator Murphy	Yes	
Senator Cashman	Yes	

Senator Gunther	Yes	
Senator Scalo	Yes	
Senator Caldwell	Yes	
Senator Petroni	Yes	
Senator Lyons	Yes	
Senator Guidera	Yes	
Senator Strada	Yes	
Senator Gormley	Yes	
Senator Berry	Yes	
Senator Power	Yes	
Senator Dinielli	Yes	
Senator Bozzuto	Yes	
Senator Costello		ABS
Senator DeNardis	Yes	
Senator Carruthers	Yes	
Senator Finney	Yes	

## THE CHAIR:

Results of the Roll-Call vote on Substitute Senate Bill 8235  
amended by Senate Amendment schedule "A"

Whole Number Voting	34
Necessary for Passage	18
Those voting Yea	30
Those voting Nay	4
Those absent and not voting	2
<u>The bill is passed.</u>	

## SENATOR GORMLEY:

Mr. President, I rise for a point of personal privilege.

## CHAIR:

Proceed

## SENATOR GORMLEY:

When we finish voting, I take a lot of pride, by the way, in being present at all Roll-Call votes and we had the Roll-Call vote on the Highway Bill, I had a couple of phone calls and I also had to see Speaker Collins downstairs, right about the time you started talking on the divorce bill. I found out that it was passed retaining and you, then discussed a different bill Calendar 320 and frankly, I did not hear your call for the Roll-

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Hearing nothing further, all those in favor indicate by saying Aye. Opposed Nay. The Ayes have it. THE BILL IS PASSED.

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Senator Rome.

SENATOR ROME:

Mr. President, lest there be any confusion, are you ruling that the committee's unfavorable recommendation and the passage of the bill were taken in one motion and the bill is now passed?

THE CHAIR:

Yes, that's correct.

SENATOR ROME:

Thank you. I move for the suspension of the rules for immediate transmittal to the House.

THE CHAIR:

Any objection. Hearing none, so ordered.

THE CLERK:

I have a Disagreeing Action just received from the House. it's on the Calendar, Page 24, Cal. 331, File 271, 206, 142. Sub. for H.B. 8235. AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE, House rejected Senate Amendment Schedule A on April 12. House today passed House Amendment A, D, E, G and L. Favorable report of the Committee on Judiciary.

THE CHAIR:

Senator Guidera.

SENATOR GUIDERA:

Mr. President, I hope you will correct me if I make the

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wrong motion. I move acceptance of the Joint Committee's favorable report and passage of the bill with all of the amendments listed by the Clerk.

THE CHAIR:

Your motion is correct.

SENATOR GUIDERA:

Thank you, Mr. President. Let me just briefly outline what the Committee on Conference has done with regard to the matter of No-fault Divorce. We have decided unanimously in the conference, all three senators agreeing and all three members of the House of Representatives agreeing, that in uncontested divorce matters we will go on a true No-fault divorce basis, that the defenses of recrimination and condonation which are the ones that stand in the way of true No-fault Divorce bill are eliminated under the law of the State of Connecticut. Additionally, Mr. President, we have agreed that where a matter is contested that the Judge may grant judgment to one or the other parties or he may not grant judgment to one or the other parties on one of the two grounds claimed. But he may grant a divorce on the basis of the irretrievable breakdown of the marriage. We have then inserted into the law of the State of Connecticut the concept of irretrievable breakdown of the marriage, not just in name only but with some real meaning. We are very much pleased here in the Senate to be able to recommend this bill to you in its present form and ask you to support it with the final amendment on it. Mr. President, I do want to say one thing personally to the

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members of the Senate. Some two months ago when this matter came up, a good number, the vast majority of the members of this circle had the courage and had the, well, the good manners to trust in me and the senators on the Judiciary Committee. Senator Scalo, I think, was probably with me more than anybody else and I appreciate his support and I appreciate the support of all the members of this circle in their vote to reject the House Amendment some two months ago and return the bill to a true No-Fault status. For if we had not, if we had accepted all the House Amendments, we wouldn't have as good a bill as we have before us now. The bill we have now is one which has met the acceptance of the Connecticut Bar Association and the members of the Senate and the House on the Conference Committee. And it is with a great deal of pleasure, Mr. President, that I recommend this matter to the members of this circle.

THE CHAIR:

Thank you Senator Guidera. Senator Alfano.

SENATOR ALFANO:

Mr. President, I stand to support this bill. I think it is really a practical solution to the whole problem. I really could not go along with the other two bills we had, the bill that came up from the House nor the amendment that we put on the bill. I think this compromise is a realistic solution to the whole matter confronting us. I think it has been very unfortunate in Connecticut where we have had many people who could not live together, who wanted a divorce, both parties, and still they had no

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ground for a divorce, and as a result they had to go through tremendous expense, at one time to go to Mexico and now from everything I hear, people are going to the West Indies. This certainly will eliminate this particular situation. And the other problem that we have had in Connecticut and I know of many instances of it, where two spouses haven't lived together in years and can't get along, there is no relationship between the two whatsoever, and at the same time one spouse won't let the other get a divorce and as a result we have situations where people who are living in adultery and this certainly is going to be a solution in that particular problem. I think this bill is a good one. I think the Committee did an outstanding job in working out this practical compromise and I wholeheartedly support it.

THE CHAIR:

Will you remark further? Senator Scalo.

SENATOR SCALO:

Mr. President, I rise to support the bill. There has been a great deal of effort put into this by the Judiciary Committee. I want to commend the chairman of the Senate and the House for having done such an admirable job on the compromise. I think that what we have here is a solution to that problem of going into court and having to face the hypocrisy of finding grounds when both parties are in agreement. I think that what we have here is the best of all hostile worlds in terms of this type of legislation. We still maintain the issues of fault. We still

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maintain an adversary situation in terms of alimony, support, custody of children which are matters that are usually those that are litigated in these issues. I feel that it is an excellent bill and I urge the Senate to support it.

THE CHAIR:

Thank you, Senator. Will you remark further? If not, all those in favor of the bill indicate by saying Aye. Opposed No. THE BILL IS PASSED.

THE CLERK:

Going back to Page 6 of the Calendar. Cal. 860, File 646. Sub. for H.B. 9022, AN ACT CONCERNING ADJUSTMENTS FOR TEACHERS WHO RETIRED BECAUSE OF DISABILITY. Favorable report of the Committee on Appropriations.

THE CHAIR:

Senator Lenge.

SENATOR LENGE:

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

THE CHAIR:

Will you remark.

SENATOR LENGE:

Mr. President, this bill would amend the law with respect to retired teachers who were retired because of disability. In substance, it increases the subsidy for a disabled teacher, increasing the amount of monthly support for this purpose from the sum of forty dollars monthly to seventy-five dollars monthly.

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No. 142, substitute for H.B. No. 8235, An Act Concerning the Dissolution of Marriage, favorable report of the Committee on Judiciary.

djh

MR. BINGHAM (147th):

Mr. Speaker, I move acceptance and passage of the joint committee's favorable report.

THE SPEAKER:

Question is on acceptance and passage. Will you remark?

MR. BINGHAM (147th):

Mr. Speaker, the Clerk has an amendment.

THE SPEAKER:

Does the gentleman from the 147th care to summarize the amendment rather than having it read?

MR. BINGHAM (147th):

Yes, Mr. Speaker.

THE SPEAKER:

Is there objection to the gentleman from the 147th summarizing his amendment? Hearing no objection, the gentleman from the 147th please proceed.

MR. BINGHAM (147th):

Did he request I read the amendment, Mr. Speaker?

Mr. Speaker, the bill as drawn in your files in section 1 deals with the three methods of dissolving marriage. Those three methods are: death, divorce and annulment. The concept of annulment remains unchanged as in our statutes 46-228. Existing grounds in the file, File No. 142, provide for one ground of divorce and that one ground of divorce is a finding that the marriage has broken down irretrievably.

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The amendment, Mr. Speaker, makes a definite change in that particular section of the file copy. The amendment provides that one of the grounds for dissolution of marriage will be that the marriage is irretrievably broken down or that the parties have lived apart for a continuous period of at least eighteen months immediately prior to the service of the complaint by reason of incompatibility and that there is no reasonable prospect that they will be reconciled and for any of the four following reasons and the following reasons are the grounds for divorce that we have presently in our statutes. Those grounds are adultery, fraudulent contract, wilful desertion for one year with total neglect of duty, seven years absence during all of which the absent party has not been heard from, habitual intemperance, and intolerable cruelty, sentenced to imprisonment for life or the commission of any infamous crime which involves the violation of conjugal duty, legal confinement in a hospital or hospitals for mental illness for a period totalling five years. Those are the classical statutory grounds for divorce that we have known in Connecticut for many many years. That is the major change in the bill as set forth in the amendment.

The second major change set forth in the amendment is that the parties will bring, or the party seeking the divorce will bring the action by written summons and complaint as we traditionally do now in the State of Connecticut rather than by petition as set forth in your file copy.

The last major change in the amendment is that upon a complaint of divorce for irretrievable marriage breakdown, the court will conduct a hearing on the ground of irretrievable marriage breakdown. To put it differently, there is no divorce by request unilaterally of one party. The amendment provides that the party desiring to preserve the marriage, if there is

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a marriage to preserve may go into court and be heard. Further the amendment provides that, and necessarily must provide, that since we have kept the grounds for divorce in the amendment, in the event that a party decides to move on the grounds of irretrievable marriage breakdown or separation for eighteen months with no reasonable possibility of reconciliation, that the defense of recrimination to those actions may not be interposed.

djh

Now, Mr. Speaker, the rest of the bill and I think I should set forth the major portions of the rest of the bill, remain essentially the same. A party must be a resident of the State of Connecticut for at least one year before filing a petition for dissolution of a marriage or the entry of a divorce decree. This will put to rest those arguments which say that Connecticut will become a divorce mill. The ninety day waiting period is still the law of the State of Connecticut. Under the amendment and under the original bill in your file, the parties must wait ninety days before seeking or achieving a divorce.

Now, Mr. Speaker, one of the new provisions of the bill which has not been amended and not taken out of the bill is the provision for reconciliation. Theoretically, we have reconciliation procedures in the State of Connecticut under 15-182(e) which are rarely if never used. Our present statutory procedure is inadequate and rarely used. Under the reform proposal, either party can request reconciliation. Upon such a request, there are two mandatory sessions with a conciliator to explore the prospects for reconciliation or to evaluate the marriage to determine whether there has been irretrievable breakdown. Counsel for minor children may also request reconciliation. The conciliator shall be a clergyman, physician or a person experienced in marriage counselling. Failure of the person to attend might well, the person

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bringing the petition to attend, might well result in the denial of irretrievable marriage breakdown finding. Now after the reconciliation procedures, the court will then have another hearing and determine whether there has been irretrievable marriage breakdown in the event that the parties decide to proceed under the first ground for divorce which is irretrievable marriage breakdown.

The bill still provides that the parties may resume the marriage or dissolve the marriage after a decree of legal separation. The bill provides and is not changed by the amendment for private hearings in contested domestic matters. That is the law today existing in Public Act 164. The bill provides for visitations, custody and support of minor children. The only change in the bill, and it's not changed by the amendment, in the area of custody is that the court is given the right to assign custody to someone other than a parent if it is in the best interests of the children.

This bill, Mr. Speaker, affords greater protection for children by permitting the court to appoint counsel for them if necessary. Counsel for the children will be paid by the parties as the court directs.

The bill, as amended, will permit the court to allow interested parties to intervene in the matter pertaining to custody or visitation with a minor child. The bill also retains those provisions which deal with custody and support of minor children where the mother and father live apart under circumstances where no divorce decree exists and no divorce proceedings are pending. The bill still retains those provisions existing and in our existing legislation regarding property settlements.

There is, however, a change in the bill and a change which is maintained in the amendment that either party may receive an assignment of property from the other. Under the current law, the husband is not entitled

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to an assignment of property owned by the wife. The bill as amended, if it is amended, permits the court to award alimony to either party and permits the court to order the posting of security to assure payment of that alimony and support. The standards, however, of making alimony award are the same as those existing under the current law.

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The bill as amended, if amended, will contain the same provisions for pendente lite, support and maintenance and preliminary proceedings with the court.

The sections of the present law and the amended bill, if it is amended, dealing with contempt orders are the same as the existing law.

The bill maintains and if amended will still maintain that the payment of attorney's fees by either party in accordance with their financial ability, the only change from the existing law is that either spouse may be called upon to pay the fees of the other party. The remaining sections of the bill which are roughly paragraphs 25 through 38 of your file copy are a codification of the present law and they will remain the same in the event that the bill is amended.

Now, Mr. Speaker, I support this amendment. As you know, the bill as drafted had one ground for divorce and the bill if amended will contain many grounds for divorce. And I would like to say simply the reasons for supporting the amendment. This gives the party who so desires the opportunity to seek a divorce on the grounds of irretrievable marriage breakdown and I don't think it takes much learning or much knowledge if one looks into his own heart to realize that the causes of divorce are not really the essential part, the finding of fault, the question of whether the person is intolerable cruelty, commits intolerable cruelty or adultery or is insane, that

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is the result of a sick marriage and the present law does not permit us to treat that sick marriage. The new bill permits the court to go into reconciliation procedures, permits the court to direct that the parties try to resolve their differences, permits the court to find that there is a sick marriage and that it should be treated and what more do we want, Mr. Speaker the state has an interest in the marriage, the state has an interest in the preservation of the marriage and this amendment and this bill provides for the preservation of the marriage. We're not interested in dissolving marriages. However, we're not interested also in wrecking the lives of people. Worse yet, wrecking the horrendous, accusatory statements on little children and again, the bill provides for the protection of little children., and the amendment so provides that counsel may be appointed to protect the interests of the children of the marriage. This the present law does not provide.

So I say, Mr. Speaker, I support this amendment. This amendment is a step forward in humane legislation and further, Mr. Speaker, it permits the parties in the event of an irretrievable marriage breakdown and we must look at facts the way they are and the facts are clear. There are marriages that cannot be saved. There are marriages that could never be saved. I don't care what party, what institution tries to save them. Eventually if this marriage is sick and dying, the court should call it dead with the least amount of acrimony, the least amount of accusatory statements. What good is it to have a great law suit and accuse everybody of matrimonial fault and wreck the lives of little children.

Mr. Speaker, this is a good amendment and I support its passage.

MR. SULLIVAN (124th):

Mr. Speaker, it is with considerable reluctance that I arise to

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oppose this amendment and of course the entire concept that's involved here. Part of my reluctance is my great respect for the Chairman of the Judiciary Committee with whom I have worked so closely during the past years and whose friendship I've enjoyed for so many years prior to coming into this body.

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My opposition to this amendment is based on two separate theories. The first theory is one of deep philosophical commitment to the fact that marriage as an institution is the basic unit of our society, the backbone of our state and I submit to you, ladies and gentlemen, that this amendment and this bill is a tremendous blow to the family as the basic unit of our society. Many years ago, centuries ago, we were a rural, agrarian economy. The family worked the farm in most instances, they lived together and there was tremendous pressure from the very nature of their lives to stay together. Today we are no longer a rural, agrarian economy, instead we are an urban, industrial economy, a transient economy. People move, there are no family roots. Many children grow up without any close association with relatives in their family. This leads to families that are always having problems within themselves because they are in a so-called foreign environment. They don't have the stabilizing neighborhood family-type arrangements that they had in the past. I submit that the state and we, as the elected legislators of this state, have an obligation to do all that we can to maintain this family unit.

A number of years ago, a gentleman whom I consider, and I'm sure many of you do to be one of the most distinguished citizens in this state has ever produced and that's Justice Raymond E. Baldwin wrote in a case that's in the Connecticut Reports and with your permission I would like to go ahead and read it sir. He said in a case that involved the question of divorce and I quote: "Marriage creates contractual obligations between man and woman of

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most sacred and enduring nature. It is the basis of the family and the home and is therefore an institution upon which rests our whole way of life. For these cogent reasons, the state has a very real and vital interest in the maintenance of the marriage bond. It is one which cannot be dissolved by the mutual consent of the parties as can an ordinary contract. Recognizing that circumstances may arise which require, for the good of all concerned, including society itself, that the parties be released from their obligations, the legislature has prescribed that the parties may be divorced upon certain grounds by the court. This does not mean that any married person has a vested right to a divorce. As the state favors marriage for the reasons stated, so the state does not favor divorces and only permits a divorce to be granted when those conditions are found to exist in respect to one or the other of the named parties which seem to the legislature to make it probable that the interests of society will be better served and the parties will be happier and so the better citizens separate, then it's compelled to remain together."

That, Mr. Speaker, sums up the obligation of the state and we as a legislature of this state in regard to matrimony far better than anything further than I can say on that subject.

I would only add that this bill as proposed before us makes a very strong attack on the family, just as the cycle of poverty breeds poverty, the cycle of divorce breeds divorce. Divorced children come from divorced families. We have an obligation to do all we can to keep those families together.

My second basis of objection to this amendment and indeed to the entire concept but particularly to this amendment is based on this particular bill. Number one, there is no definition within this bill of what an ir-

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retrievable breakdown is. There is nothing to guide the courts as to what the legislative intent, what do we mean by irretrievably lost? I don't know and it's not spelled out here.

Secondly and far more important, I disagree most heartily with the Chairman when he describes the effect that this bill has on our present marriage laws and I call your attention to lines 257, 258 and 259 of the amendment. This says and I quote: "The defense of recrimination to any action for dissolution of marriage or legal separation is abolished." That, ladies and gentlemen, is a tremendous change in what our marriage laws are in this state today. Recrimination includes the clean hands doctrine and the clean hands doctrine is a legal maxim that says equitable relief and divorces in equitable action may be denied on the grounds of deceit or impurity of motive, fraud or wilfull misconduct, unjust and unfair conduct or unlawful or inequitable conduct. What you are saying with this amendment which eliminates recrimination and which allows for a divorce after eighteen months of living apart is very simply that a person may go out and engage in an adulterous liason with another person for eighteen months and then walk into court and say my marriage to the innocent party is irretrievably lost and I want a divorce and there is absolutely nothing that the innocent party can do about it. Those are the grounds—that they have lived apart for a continuous period of at least the eighteen months immediately prior to the service of complaint by reason of incompatability. So one party walks in after living in Nassau or the Bahamas or somewhere and having a grand old time for eighteen months and says, the marriage is broken down and there's no question they've been apart, we are incompatable, I wouldn't go back and live with my partner for a million dollars and they are entitled to a divorce.

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Now, what happens under this bill next? According to what we have been told, the problem of bringing the children in and the accusatory actions are eliminated by this bill. Well I ask you to read section 19 as it's in the file No. it's section 17, but by the amendment, it's changed to section 19, I believe. In any event, it's at line 369 of the file No. 142 and that says at the time of entering a decree, annulling or dissolving a marriage or for legal separation and so forth, the Superior Court may assign to either the husband or wife all or any part of the estate of the other. In fixing the nature and value of the property, if any, to be so assigned, the court shall consider the length of the marriage and this is important, the causes for the marital breakdown, the age, the health, the station and the occupation, the amount and sources of income and so forth. Now if you don't think that all the same dirt that was going to come out under the question of causation isn't going to come out when they're fighting about money, you have another thought coming because that's basically what the fight's going to be about. And every single bit of dirty laundry and mud will be thrown in the courtroom just like it is now. Why is it that in getting into the very question of the nature of the contract, whether or not it should be preserved, the conduct of the parties is not important but when you get into the question of money, they take it into effect. Which is more important—the obligation to preserve the family as a basic unit of society or whacking up the dollars that have been accumulated during the years of the marriage. It's fine to take into consideration misconduct, adultery, drunkenness and any other thing when it gets into the question of money but don't bother about it if you live apart for eighteen months.

You're not going to save any children. Divorce is a terrible

thing for anybody to have to go through. My heart goes out to anybody who is subject to it. And there are problems with the family today. There are pending as of 1972, 11,500 divorce cases in the Superior Court and only 17,000 other cases so you can see it's a problem. But this bill does nothing to solve it. This bill merely says, make it a little easier, don't set up any rules for people to try and live by, just go ahead and do what you want and then come into court and we'll fight over the money and bring it all out anyway.

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Under this provision as I read this bill, it would seem to me that the party who's guilty of misconduct can still be awarded alimony so you could be in a situation where even though your own misconduct has brought about the marriage, and let's assume it would be a wife who was off keeping an adulterous relationship with somebody else, she could still be entitled to alimony. She can't today but now under this, she could come in, get a divorce and the court could award her money. I don't think that's really what we intend here.

As far as the reconciliation provisions are concerned, they are nothing but a smokescreen. Reconciliation only works when the parties want to make it work. You can't say go in there for two sessions and be reconciled. It just isn't going to work. Unfortunately, there are no statistics that anybody can ever compile as to how many marriages are saved because of the divorce laws we have. Certainly a lot of them are lost but there are instances where people stay together because they know there are no grounds and they work out the problem but to write reconciliation into a bill and say, you got to go for reconciliation and think that it's going to do one single thing except maybe cost the State of Connecticut some money when the people

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can't afford it is simply not going to work. It is not going to have the effect that we hope that it would.

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In so far as the innocent party going into court and be heard, the only thing they're going to be heard on is the money issue. If the other party is in on this irretrievable breakdown--

MR. AVCOLLIE (70th):

Mr. Speaker, a point of order, Mr. Speaker. I don't wish to cut anyone short but I wonder at this point whether or not Mr. Sullivan is not going into the bill itself rather than the amendment. It seems that for the past, at least the past two or three minutes he's addressing himself to areas that are not in any way covered in the amendment.

THE SPEAKER:

I think the gentleman from the 124th is clearly within the purview of the amendment regarding the two additional regarding irretrievable breakdown and the eighteen month separation and the Chair would rule that the motion, the point of order is not well taken and ask the gentleman to proceed.

MR. SULLIVAN (124th):

I'm just about finished, Mr. Speaker. I again would simply close by reminding everyone that in my opinion we, as legislators, do have a duty towards the family as the basic unit of our state, of our society and I think that if this bill passes, we are derelict in our duty in supporting that family as that unit. Thank you.

THE SPEAKER:

Will you remark further on House Amendment Schedule A?

MR. WEBBER (92nd):

Thank you, Mr. Speaker. I would congratulate Rep. Sullivan for having made an excellent dissertation although I disagree with him and

disagree with him wholeheartedly. It would appear to me and of course I'm not a lawyer and I can't talk about the technical details but it would appear to me that if a marriage is broken down beyond repair, it most certainly should be terminated in a dignified manner provided, of course, that all financial and custodial matters are resolved in a fair and equitable manner and the way I read the bill, this bill is a step in that direction. .djf

I would remind all of you ladies and gentlemen that the present law retains grounds of divorce which were originally adopted in 1702 when Connecticut was a colony and the law has remained virtually unchanged for a hundred years.

Now I realize, Mr. Speaker, I may be talking to the bill and partially to the amendment, but it seems to me that the amendment is almost the complete new bill so if I am not germane, I will beg your indulgence and you to permit me to continue.

THE SPEAKER:

I'm sure the gentleman from the 70th will make us aware of the fact that you're not germane.

MR. WEBBER (92nd):

Thank you. I would point out too that the concept of the amendment and the bill is not a new concept. Some fifteen states have already adopted the same concept using such interchangeable phrases as "irretrievable breakdown", "irreconcilable differences", "insupportability of the marriage" or "incompatibility" and in addition thereto, fifteen other states and the District of Columbia have adopted "living apart" as a ground and this is merely another recognition of irretrievable breakdown, Mr. Speaker.

The way I read the bill, this is not an attempt to establish easy

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divorces in Connecticut, as has been stated. The twelve month residency requirement prevents non-Connecticut persons from taking advantage of the concept of breakdown and the statute clearly recognizes the interest of the state in preserving viable marriages and protecting the family unit. To me, the way I interpret this bill, it merely affords a more civilized and less hipocritical procedure for terminating marriages which have been broken beyond rehabilitation and recognize that the dignity of the individual and his or her right to privacy provides greater protection for the interests of the children. I know several families who are living together only because it's the right thing to do, desperately unhappy in a household that is bringing nothing but problems to the children. This bill will go a long way, I think, in solving their problems.

Mr. Speaker, I support the amendment and support the bill.

THE SPEAKER:

Will you remark further on House Amendment Schedule A.

MR. NEVAS (136th):

Mr. Speaker, I rise in support of the amendment. This bill, the original bill, in the file bears my name as a co-sponsor and I would remind this House that two years ago, Mr. Bingham and myself co-sponsored what is essentially the same bill and at that time, the bill did not come out of committee. I still support the original concept of the bill in the file and I would have preferred that bill. However, in discussions with fellow members of this body, in discussions with fellow members of the bar, I have heard a number of criticisms and arguments that they have raised with respect to certain portions of this bill. And while I have not been persuaded that they were correct in their criticisms, I became convinced that their criticisms

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represented a relatively broad spectrum within the organized bar, within this body and within the public at large and I recognize that and in consequence thereof, I participated to some small degree in the preparation of these amendments and I think they're good amendments.

Now I've listened to the arguments of Mr. Sullivan who sits next to me and who is a good friend and colleague but we disagree on this matter and I think as he indicated, the disagreement is basically philosophical. I would not disagree with him or with any other speaker in this House today who tells us, as Mr. Sullivan did, that marriage or a married family is the basic unit of our society. I don't think anyone can disagree with that. However, in his recitation of those pressures that have developed in our society as we change from the agrarian society that he described to the kind of life that we now know in Connecticut and in many other parts of the country. The very things that he describes are the pressures that have developed in our society that have caused the increase, the terrible increase in the divorce statistics that he cited. It's because we live in that kind of mobile and transient society, it's because we live in a society where money and materialism has become important and where getting ahead is so important. This has transformed not only the kind of society in which we live but it's transformed the family and people make up families and people have changed, their attitudes have changed and as a result, peoples' attitudes change during marriage and that causes divorce. And I think because the state does have such a vital stake in the preservation of the family and in the maintenance of good order in terms of marriage and children and family life, it is for that very reason that the state and acting through this body must re-examine, as Mr. Webber has indicated, laws that in some respects go back to colonial days and it is

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for that reason that we are offering this change in our divorce laws here today. Because we do have a stake and because it is our responsibility. dj

It is very important that families stay together and I don't think there are very many lawyers in this House or practicing in this state who when a spouse comes into their office and tells them that their marriage is in trouble and that they want a divorce, doesn't say to them in the initial interview, have you explored reconciliation, have you seen a counsellor, have you talked to your minister or priest or rabbi, what have you done to explore this possibility. That is a responsibility of an attorney in a matter such as this. And I think that's really the responsibility of the state and the state has discharged that responsibility by inserting in this act the provision for conciliation and for reconciliation.

Mr. Sullivan indicated earlier that one of the major criticisms, or one of his criticisms was that the term "irretrievable breakdown" is not defined, and that it's an illusory kind of thing and that we're really not sure what it means. Well, there's another term in our divorce statute, in our existing statute and that term is "intolerable cruelty" and I think it's probably safe to say that when that term was adopted as a grounds for divorce and I don't know when that was, perhaps the same kind of criticism could have been levelled at the adoption of that term. But a body of law has developed in this state interpreting the term "intolerable cruelty" and I don't think, and I think being very realistic and practical about it that that term was much more difficult of interpretation and definition by the courts of this state than will be their task in defining the term "irretrievable breakdown". I think as we have grown as a society so have the judges who serve us and they understand because, Mr. Sullivan has indicated, there

are some 11,000 cases pending in the Superior, divorce cases now pending in the Superior Court and unfortunately the judges of that court have become very expert in determining when a marriage is irretrievably broken down and in effect, they have in many instances adopted perhaps privately their own standards for such a determination.

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The deletion or rather the elimination of the concept of recrimination is a very important step and a very important part of this bill. I think that none of us would in the example given by Mr. Sullivan have much sympathy for the party that he describes but I think we also have to be very realistic and we have to understand that if that situation obtained, that is that husband who was off and then came in at the end of eighteen months, if he came into court the wife still retains every single one of the rights that she has today. This amendment doesn't change anything. She has the right to contest that divorce if she sees fit. If, in fact, the court makes a finding and that's very important because the court must make a finding, if in fact the court makes a finding that the marriage has irretrievably broken down, she is entitled to alimony and if there are minor children, those children are entitled to support and if there's property, she's entitled to a portion of her husband's property and we know very well that in the course of any hearing that the court may conduct to determine whether or not that marriage is irretrievably broken down and if in fact the facts are as stated by Mr. Sullivan, that husband isn't going to come off very well as far as that court is concerned in terms of finances and money. Now realistically speaking, if at the end of that eighteen month period they have not in fact come back together and they are still living separate and apart, that marriage is dead. What would be the point of prolonging such a marriage? Those people should be

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divorced and those children, if in fact there are minor children, should be extracated from that kind of a situation.

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One of the major objectives of this legislation, and I think we've accomplished it, is that now in uncontested divorces the dirty linen has to be aired. The people still have to come into court and air their dirty linen even though the divorce is uncontested, and even though there is an agreement. This will be avoided under the adoption of this amendment because the court will only have to make a finding that the marriage is ir-retrievably broken down. Under the statutes the court has the discretion to not hear supporting witnesses and can hear one party or the other party if they so corroborate and in fact there can be a divorce without the airing of dirty linen.

To the point that the guilty party or the party guilty of misconduct, if in fact she is a woman, could get alimony. That doesn't bother me, strangely enough because under the law today, not statutory law but case law, women who are guilty of marital misconduct can still be awarded custody of the children if in the discretion of the court, despite her misconduct, she is the better, the person better fit to have custody and if a situation developed where a woman had been guilty of misconduct and if the circumstances were such that she should have alimony, that would not disturb me because I think what the bill, what the amendment is trying to do and what the bill is trying to do is to equalize the situation and to make people, husbands and wives, more equal than they have been under prior law.

The conciliation procedure, I think, is one of the most important features of this amendment. Sure, you can't force people to go into reconciliation meetings, you can't make them go back together with each other and

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you can't make them do some of the things that have been indicated but often times when people come to my office and I know to other lawyers' offices and you ask them the question that I indicated before, have you sought reconciliation procedures, have you seen a counsellor, the answer many times is, I would like to but I can't get my wife to go or I can't get my husband to go. I think if we could go see someone and we could talk, perhaps we could solve some of our problems or perhaps we could ease the way toward divorce which they may feel is inevitable. And often times when people do have, seek conciliation and counselling, they don't end up being reconciled but what they end up being reconciled to is to the fact that a divorce is inevitable and that they should accept the inevitable and proceed in an orderly and decent manner for the sake of their own dignity and for the sake of their children. And I think that that's what this bill does. It's going to provide dignity for the parties involved and it's going to provide supportive measures for the children of these marriages and really, they're the most important ones and the ones that we should be most concerned about.

Mr. Speaker, I urge adoption of the amendment.

THE SPEAKER:

Will you remark further?

MR. RATCHFORD (109th):

Mr. Speaker, I rise to support the amendment. Quite frankly, I would have preferred the bill in its unadulterated form but have been persuaded by the sponsors, Rep. Bingham and Nevas, that in that form the bill cannot pass. I think the amendment is essential to save the new grounds as proposed by the bill itself, namely the irretrievable breakdown of the marriage. I think this in and of itself is sufficient justification for

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supporting the amendment because in adopting this new ground, we remove much of the hypocrisy which now surrounds the court, which now surrounds the whole question of divorce and with it bringing great disrespect for the law. Max Lerner said and he might have been talking about Connecticut's law that under existing divorce statutes throughout the country, the rich go to Mexico and I suppose he'd now say Haiti, the middle-class commit perjury and the poor live in adultery and quite frankly, that has been the effect of the Connecticut law under the so-called intolerable cruelty section.

Rep. Sullivan very legitimately raises the question about the definition of the new ground but I would submit to you that the current practices that 90% of Connecticut's divorces or 9,000 of the pending divorces are based upon intolerable cruelty and what a shame this is and what a disgrace it is and what a horror it is for those people who must go through it. The procedure goes something like this and it takes all of ten minutes when it's uncontested. When were you married? Where were you married? State for the record the names and dates of birth of your children. When did you begin to have difficulty with your spouse? What was the nature of that difficulty? And then invariably because most of the judges still require it, there's a statement that two or four or six or eight years ago, that there was a striking and it might be one incident, one incident of physical violence and that becomes the basis for divorce. What effect did this have on you? It made me nervous, I couldn't sleep, I lost weight. Have you separated? Yes. How do you feel since the separation? Substantially better. Divorce granted on grounds of intolerable cruelty.

Now if this isn't hypocrisy and this isn't fraud, I don't know what is and yet we're perpetuating it under existing Connecticut law. And I

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say to you that changing the basis will bring some dignity to this procedure. It's difficult enough to walk into a lawyer's office or a counsellor's office or a priest or a rabbi or a minister and say I'm having trouble with my marriage. And if after reconciliation it cannot be restored, I think then we take the step into the courtroom and should it be one which humbles people, which puts them on their knees as the current practice, should it be one that really perpetuates fraud and it does because I've seen individuals go to one lawyer who will tell them well, there's no striking and the judge sitting now would require some physical violence so you don't have grounds for the divorce and then that name appears on a divorce calendar because they've gone to someone else, having discussed it with their husband or wife and said, well we did actually some time during our marriage push each other around and therefore, we'll state this for the court.

I think if we're going to have respect for the law and we must, I think if we're going to restore confidence in domestic relations in the courtroom and we must, I think we must have a new viewpoint of divorce and divorce practices and adding this new ground in my judgment would simply accept the fact it is the basis for most divorces now. The marriage is broken down, it cannot be restored. Why must we perpetuate the myth of violence or physical violence or being upset or nervous or distraught and make this the basis for the divorce. We need a more humane procedure and this suggestion as found in the bill and contained in the amendment would bring it about.

Secondly the whole aspect of reconciliation is important. I would suggest to those who say that two visits are not enough, I might agree with them but it's better than the current procedure where one party can refuse to

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take counselling and the other party is put at the disadvantage of not being able to go through the process at all. I think that we need to take a new look at Connecticut's divorce laws. I think that we need to restore respect for the law. I think we need to take hypocrisy out of the law and adopting this amendment and ultimately this bill will go a long way toward doing that in the State of Connecticut. dj

MR. KABLEK (29th):

Mr. Speaker, I agree with much of what the distinguished Representative Ratchford and Nevas have said. I do believe that there is a degree of dignity which will replace the current formula, if you wish, for our existing and it does exist, our existing no-fault divorce in Connecticut. However, we are acting on an amendment and I believe that all of the goodness, if you wish, of this amendment springs from what is left of the original bill, not from the amendment itself, what occurs because of the amendment. Fine if you have two agreeing individuals, they may obtain a divorce based on this new ground. However, because of the amendment, not the bill, but because of the amendment if there is disagreement, you will have one party bringing the action perhaps under this new ground, the other party will counterclaim under the grounds of intolerable cruelty or adultery or some other ground and you will sink to the current status of dirty linen, if you wish, because the old system is being retained along with the new ground and I think that's objectionable and I think that we should reject this type of compromise, if you wish, because it does only one thing, it subtracts from the original idea of no-fault divorce, if you wish.

Now I make one other point and it's brief because I realize the time and probably the number of other speakers as well, and that is the second ground that is now added. I think it's extremely discriminating. It allows

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in effect part of the, if you wish, the opposition of this bill has been the aspect of unilateral divorce. We don't want to give the right of unilateral divorce when one party wishes to in fact retain the marriage. What we've done is we've said, yes you can have unilateral divorce after living apart eighteen months and the distinguished Representative Sullivan has pointed this out very ably. Why it's discriminatory is if a husband wishes to leave, he leaves. A wife, if she wishes to leave, leaves, if there are no children. What wife do you know, unless they have means and money can take her two or three children and say, I'm going to live apart for eighteen months and then I'm going to say well I won't live with my s.o.b. husband and, therefore, have the grounds under this new ground. This flies totally in the face of the equal rights amendment that we passed here in the House not that long ago and while the proponents of the amendment have said much that is good for the amendment it's only because it springs from the original bill itself and I ask that we reject this amendment and at least vote on the good portion which is the bill itself.

THE SPEAKER:

Will you remark further?

MR. HANNON (10th):

Mr. Speaker, I have in front of me the amendment that we're supposed to be discussing which is some 258 lines long. I'm not impressed because of its substantiveness because we have over the years had many amendments that were as long and longer. I am concerned, however, over what seems to be a conceptual difference between the file copy and the amendment before us and I would direct through you, sir, a question to the distinguished Chairman of the Judiciary Committee who I presume spent hours and hours on

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what is commonly referred to as no-fault divorce and the very talented ladies and gentlemen who served on that committee and they brought out favorably a bill which would initiate, as I understand it, divorce by petition and there seems now to be a wide difference in that philosophy because as I understand the amendment now, we're dealing with writ, summons and complaint. And I would ask through you, sir, why that difference from petition to complaint.

THE SPEAKER:

Will you remark further.

MR. BINGHAM (147th):

Answer a question, Mr. Speaker.

THE SPEAKER:

Please proceed.

MR. BINGHAM (147th):

The thinking behind the change in the amendment was to allay the fears of those who raised an objection and a reasonable objection that divorce would be possible unilaterally over the objection of the other spouse and to correct my brother from the 10th, this never was termed no-fault by the Judiciary Committee. If it needs a term, it's all-fault divorce and not no-fault divorce.

THE SPEAKER:

Will you remark further?

MR. MORRIS (94th):

Thank you, Mr. Speaker. Mr. Speaker, I rise to support the amendment. I would much rather have had the bill without the amendment but for all the reasons expressed by the gentleman from the 109th and the 136th and I don't plan to be redundant, I do support the amendment. Mr. Speaker, to

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maintain the family unit under extreme duress is in fact unnatural and unhealthy. Mr. Speaker, it also precipitates crimes of passion, passion such as murder. Many of you know if you check your police departments you'll find that most marriages are dissolved that way, a lot of marriages are dissolved that way, correction. Mr. Speaker, the divorce-experience itself is a very traumatic experience. Under the present law in Connecticut and most states the essence of divorce proceedings is the fault on the part of the defendant and one on the part of the plaintiff, i.e. an adversary proceeding guilt of the other party within the framework of the specific grounds established by the legislature. We haven't heard it from the canon law or the decisions of the ecclesiastical courts the notion that the basic purpose of a matrimonial decree is to relieve an innocent partner from the burdens of a marriage which has become intolerable and unbearable through the fault of the other spouse. Now, Mr. Speaker, that's totally unrealistic. The breakdown of a marriage is rarely if ever the fault of only one partner. Mr. Speaker, we have indicated that it is extremely harmful to the children to continue marriage of this sort. Reconciliation assumption of the adversary posture at the outset of the procedures drives the parties further apart thus reducing the effectiveness of counselling and conciliation efforts. It may destroy any vestiges of hope for reconciliation. Why should we continue a dead marriage of this particular type.

Mr. Speaker, I hope that we can get on with this business today. We recognize that it is getting late, recognize that this is going to go to the Legislative Commissioner's Office and also further recognize that we will have it, an extensive debate when the bill is returned to us again. Thank you, sir.

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MR. DICE (89th):

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Mr. Speaker, I feel badly about this amendment because I think that we had a good bill here in the beginning and I think the bill should pass. As the speakers have said before, the bill does something to bring dignity back not only to the people but to the law in the situation. People do not walk into divorces and not find it traumatic so that I do not think this is a no-fault divorce kind of thing that we're going to break down the family structure by walking into it. If it is not a traumatic matter, the marriage is long dead. Consequently, it is my feeling that this amendment however should be defeated because if it is I propose to submit an amendment that in effect would add the lines that the amendment itself proposes which says in effect that the people have lived apart for eighteen months, that that in itself then would be sufficient for the divorce. Consequently what would happen, a petition would be brought if there was agreement, there would be divorce on the basis of irretrievably breakdown in the marriage. If there was not agreement, then after eighteen months, the divorce could be granted. It is my feeling that if people do not live together for eighteen months, you're not going to force them into a marriage or force them into any kind of a situation by virtue of any kind of a law. We tried that to legislate a number of years ago abstention. We couldn't do it. We are not legislating marriages now by the law we have and I don't think that by virtue of hanging on to old vestigages, we will do it again.

In addition to that, I think Mr. Sullivan had a good point. I would make another amendment that would eliminate from the basis of the property settlement the causes for the breakdown of the marriage. Consequently if people do get divorces, it is on the basis that there is fault on both sides or that if people cannot get along, you cannot force them to get it.

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Consequently, if this amendment is defeated, I will submit to the body other amendments which would put into the bill the section concerning eighteen months and make it a true basis on which there is not a degregation of the human dignity involved. Consequently I ask you to vote against the amendment because I think all we're doing is putting back into the statute an adversary proceeding, the very thing that we're trying to eliminate here. If you look at this amendment, what it does, it makes the whole proceeding adversary again if the parties do not agree. I do not think that is the way we should go. Thank you.

MR. AVCOLLIE (70th):

Mr. Speaker, I'll be brief. I rise in support of the amendment as one who could not support this bill in its original form in the file. I think we do ourselves the institution of marriage and the process of divorce as it's spelled out and as we are spelling it out an injustice by trying to tag it with some convenient labels like no-fault. I think we should all realize that if there were no-fault, there would be no divorce and I don't think anything is going to change that.

As far as putting in an adversary proceeding into the divorce process, with all due respect to Mr. Sullivan and Mr. Dice and I certainly agree that the marital institution is the basic unit of our society but frankly, those people that are ending up in the divorce courts have had an adversary proceeding during the marriage and there's no real good reason why they shouldn't continue to until the marriage is dissolved by a court of competent jurisdiction.

This compromise, and that's what it is Mr. Speaker, saves all of the good things that exist in our present divorce laws and have been there for

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a couple of hundred years and puts into it one additional ingredient and that is the ingredient of a new cause of action which simply says when a marriage is broken down, it's irreparable, it's destroyed, it's incompatible, whatever word you want to use to describe it and both parties really agree that it's time to call a halt, I don't think there's any question about the eighteen month section which is being added and which Mr. Dice tells us he would add as a single additional criteria for divorce is rather fallacious. It's been pointed out by colleagues on this side of the aisle that there's no real reason why you want to wait eighteen months. I'm sure Mr. Dice realizes that after twelve months under most situations, you can go in for a divorce on the grounds of desertion. I don't why he should suffer apart but married for an additional six.

I don't support a concept of no-fault and I don't support the file copy but I think it's a good compromise. It works out all the problems. It does in fact, in my opinion, strengthen the unit of our basic unit of our society that we refer to as marriage. It strengthens it by providing a good conciliation procedure. It strengthens it by considering the children and the best interests of the children in custody fights and I believe it's a worthwhile step forward. It's not a liberalization. It's not scrapping all the old. It's a modernization of a cause of action which unfortunately we must maintain because there are times when marriages will break down and I think we're facing up to this problem realistically. And I would urge that we pass this amendment and get on with our business because we certainly have many hours ahead of us when this bill comes back.

MR. EDWARDS (146th):

Through you, Mr. Speaker, a question to the chairman of the Judiciary.

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THE SPEAKER:

Please proceed.

MR. EDWARDS (146th):

On the amendment which knowing today we have as expressed these procedures that cause a lot of distress, particularly for the children, from the testimony given at hearings, is it your opinion that now that we add irreconcilability to the grounds for divorce, does it seem evident that more people will come to use that as the petition for divorce than would go towards the existing means of divorce which cause concern to the children, the things we're trying to avoid.

MR. BINGHAM (147th):

I would say that those people who do not wish to indulge in accusatory statements and recriminations would use the avenue of irreconcilable differences. It would be hard, yes, the answer would be yes, more people will use it in as much as we don't have that ground now. However, that was not the subject of the public debate. The public debate and the public hearings indicated that overwhelmingly the people supported the no-fault concept or the irretrievable breakdown concept.

MR. EDWARDS (146th):

Yes, I know this was not the subject but I think that would tend to indicate that they would prefer that route to any of the routes that are in the amendment.

MR. BINGHAM (147th):

Well, I think that any reasonable man would prefer that route to the charade that we practice now.

MR. EDWARDS (146th):

I think so. In that case, although I agree that the bill in the

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file probably achieves the purpose better, in this case I would be in favor of the amendment because I think more people would do it exactly as the question has been answered.

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MR. SULLIVAN (39th):

Mr. Chairman, I hope I'm in order. Because this is a major amendment of great significance, I would like to request a roll call vote to be made on the amendment.

THE SPEAKER:

There's been a motion made for a roll call vote on House Amendment Schedule A. All those in favor of a roll call, signify by saying aye. In the opinion of the Chair, the necessary 20% have not indicated their desire for a roll call vote and a roll call will not be ordered.

MR. BEVAQUA (122nd):

Mr. Speaker, I'm opposed to this amendment because I have tried to read it for the last couple of hours and before when it was submitted to me. I'm not an attorney and I frankly am befuddled by what is included in it and I'm going to identify it as a contrivance on the part of the proponents of the bill to make this bill palatable. I see that we're bringing back the existing grounds for divorce and we're adding an additional ground called irretrievable marriage breakdown as a ground for divorce which seems to me to be a term that nobody even seems to be able to say without stumbling, let alone understand.

The thing that concerns me more about this amendment, the part of it that I can fathom, is that aspect of it concerning the children. It's been said that children are protected by the amendment and this bill but I submit to you that minor children are not protected by this because if we

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as mature educated adults can't understand what's happening here in irretriev-  
able breakdown, how can we expect a minor child involved in a divorce proceed-  
ing to accept it. I envision many traumatic experiences among children because  
of things like this. A child can see and understand the brutality, cruelty,  
dissertation, drunkenness; these are very visible things but things are grounds  
that we have now and I cannot understand why we need something called an  
irretrievable marriage breakdown.

Now I agree that reexamination of our laws are very much in  
order but this amendment and this bill, to my way of thinking, has given only  
superficial examination to this particular law and this particular concern of  
divorce and marriage breakdown. Since not even the learned attorneys, and  
we've listened primarily this afternoon a great many learned attorneys, I  
have great respect and admiration for every single one of them that have  
spoken here today, but they're not in agreement as to the corrective action  
of this bill. I can't deny that there are marriages which should be dissolved,  
cases where there's nothing left to do and there are no dependents to be hurt.  
A dignified way to dissolve a marriage should be available but I submit to  
you, Mr. Speaker and ladies and gentlemen of this Assembly, that neither the  
amendment nor the bill as I understand it does this. Thank you.

THE SPEAKER:

Will you remark further?

MRS. BECK (54th):

Mr. Speaker, I would like to support the amendment and just to  
summarize what we understand will take place after we vote on the amendment.  
My understanding is that the amendment would go to the Legislative Commis-  
sioner's Office, would be read for accuracy, technical changes, that the full

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bill would come back printed with the amendment so that those people who do not see the whole unit and I would say that's most of us right now will have an opportunity to see this all put together in one piece and that then we will have another day to consider this amendment in full printed form as part of the bill so that we all will have an opportunity to review and consider the full impact of the bill and it is only then that we will discuss and debate the entire bill, it's substance and it's import and I think that you've done something very valuable today because certainly at the outset of this discussion, there were many of us who were very concerned at having to vote very quickly on a bill which was not at all in one piece and quite rightly, the minority and the majority worked out a compromise and this will be held off. This is a very important thing that has happened and I think we can be very pleased with the result of that decision because it was about to move too quickly.

I would like to say on my own behalf that while I'm supporting the amendment, there are many of us who know full well that this is not by any stretch of the imagination a perfect piece of legislation nor even a nearly perfect piece of legislation; that those people who at this point would like to remove some of the extremely divisive actions which happen in the lawyer's chambers and in the courts themselves remove a great deal of the hypocrisy and concern involving divorce and recognize reality know that the action here in this House when we vote on the final bill will be a significant step forward but I would like to say in voting my support for this amendment at this point that what we are doing is moving the bill ahead, trying to work with a compromise and that certainly I know that Rep. Griswold and myself have been concerned and many other people with a study of adequate enforcement of support, particularly for children on FDC, this is a long standing problem.

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The people who have opposed the particular legislation in the form that it's coming out have indicated studies which do show that our procedures for enforcing support need much greater refinement and they are rightly concerned that there will be further problems so that what I am doing in supporting this amendment is supporting a movement forward in the basic concept of divorce from that of acrimony to that of rationality and reason, knowing full well that we can come in with amendments on Wednesday or on Thursday when we debate the bill; that we can refine further but most importantly that we are moving forward on the concept of, and I would say in many cases no-fault because there simply are incompatibilities that develop and our law is rooted in an outmoded concept of what the realities of life are all about. And I would vote at this point for the amendment in order to have the debate move forward and hopefully to have a good bill come out of here on Wednesday.

THE SPEAKER:

Will you remark further on House Amendment Schedule A.

MR. BINGHAM (147th):

Mr. Speaker, just briefly. In answer to my brother, Sullivan, in the event that his remarks about eighteen months separation, he forgot to read past the "and", at least eighteen months prior to the service of the complaint by reason of incompatibility and he stopped, there is an "and" and it says: "and there is no reasonable prospect that they will be reconciled." That is not divorce by consent. This is not a new concept. Our sister state, Texas adopted a bill very similar to this wherein they added a seventh ground for divorce where the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate end of marriage which is similar to an irretrievable concept type of divorce section.

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Further, those who say that it's impossible to define irretrievable marriage breakdown, and I know the one who raised that, every day he goes into court and tells me and the jury and the court what a reasonable man is and I defy him to define that.

If you are in favor of the concept of divorce reform which I am and I'm sure most of the people of this House are, you should support the amendment and support the bill.

THE SPEAKER:

Will you remark further on House Amendment Schedule A? If not, all those in favor indicate by saying aye. Those opposed? The amendment is ADOPTED. The Chair will rule the amendment to be substantive and direct that it be sent to the Legislative Commissioner's Office. It will be returned at some point next week for action by the body.

THE ASSISTANT CLERK:

Page 2 on the Calendar, Calendar No. 79, File No. 60, An Act Clarifying the Definition of Severance of Employment in School Systems, H.B. No. 8045, favorable report of the Committee on Labor and Industrial Relations.

MR. NEVAS (136th):

Mr. Speaker, may that item be passed retaining its place on the Calendar?

THE SPEAKER:

Is there objection to the gentleman's motion to pass this item retaining its place on the calendar? Hearing none, it is so ordered and the item will be passed retaining.

THE ASSISTANT CLERK:

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Total Number Voting.....143  
 Necessary for Passage..... 72  
     Those voting Yea.....143  
     Those voting Nay..... 0  
     Absent and Not Voting..... 8

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MR. SPEAKER:

The Joint Committee's favorable report is accepted and  
 the bill is passed in concurrence with the Senate.

Gentleman from the 112th.

REP. JOHNSON: (112th)

Mr. Speaker, may I move for suspension of the rules for  
 immediate transmission to the Senate.

MR. SPEAKER:

Question is on suspension for transmittal. Is there  
 objection? Hearing none, it is so ordered. The rules are sus-  
 pended and the item will be transmitted.

THE CLERK:

The second item on business today is on page 7, Cal. No.  
 139, in your file No. 206, Sub. H.B. 8235. AN ACT CONCERNING  
 THE DISSOLUTION OF MARRIAGE, as amended by House Amendment  
 Schedule "A".

Favorable report of the Committee on Judiciary.

MR. SPEAKER:

Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, I request that this be placed on the Consent  
 Calendar.

REP. KENNELLY: (1st)

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There's no objection, Mr. Speaker.

MR. SPEAKER:

Hearing no objection---gentleman have any other jokes?

REP. BINGHAM: (147th)

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

MR. SPEAKER:

Question is on acceptance and passage as amended by House Amendment Schedule "A". Would you remark.

REP. BINGHAM: (147th)

Mr. Speaker, the Clerk has an amendment.

THE CLERK:

House Amendment Schedule "B" offered by Rep. DeMerell, Rep. Matties, and Rep. Sullivan of the 39th to Sub. H.B. No. 8235, File No. 206:

strike out everything after enacting clause and substitute in lieu thereof lines 1 to 855 inclusive of File No. 142.

MR. SPEAKER:

Gentleman from the 35th.

REP. DeMERELL: (35th)

Mr. Speaker, would the Clerk read the amendment, or excuse me, Mr. Speaker, I move for adoption of the amendment.

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "B".

Would you remark.

REP. DeMERELL: (35th)

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Yes Mr. Speaker. This amendment is basically substitute House Bill 8235 which the Judiciary Committee reported out favorably.

This is a good bill. It brings a much needed measure of dignity, honesty, and privacy to remedial procedures that by its very nature is charged with human hurt. It grants a remedy to marital disharmony without recourse to cause. It allows any hearing to be held in private at the discretion of a judge or on request by either concerned parties. It applies a procedure for reconciliation through counsel. It's applied to comprehensive procedure for termination of alimony and child support. It awards alimony without consideration of the causes of marital breakdown. It provides formidable protection for any children that may be affected. It allows the wife to restore her maiden name.

This bill richly deserves passage. We cannot legislate the insolubility of the family unit or return to a (inaudible) economy. We can recognize the changing of the times. The stresses of process is brought upon our society and accordingly provide the people of Connecticut a dignified and personal framework within which they may seek the best solution to their problems.

Mr. Speaker, I move the vote on this amendment be taken by roll call.

MR. SPEAKER:

Question is on a roll call on adoption of House Amendment Schedule "B". All those in favor of a roll call indicate by

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saying AYE. The necessary 20% having indicated the desire for a roll call, a roll call will be ordered.

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Will you remark further on adoption of House Amendment Schedule "B". Gentleman from the 1st.

REP. KENNELLY: (1st)

Mr. Speaker, through you, may I inquire of the gentleman who brought out the amendment. (MR. SPEAKER: Please proceed)

Does this amendment, sir, in effect restore the bill as amended by House Amendment Schedule "A" to its original file form?

REP. DEMERELL: (35th)

Yes.

REP. KENNELLY: (1st)

Thank you sir.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "B". Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, I rise in opposition to this amendment. We went through a long and lengthy debate on the subject of the original bill. We, after a long and lengthy debate and much question and answering by the members of this House arrived at House Amendment Schedule "A" and I am here to support the bill as amended and in opposition to the House Amendment Schedule "B".

MR. SPEAKER:

Gentleman from the 124th.

REP. SULLIVAN: (124th)

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Mr. Speaker, I do not intend to repeat the rather lengthy remarks I made the other day concerning my position and feeling about this subject, I hope I made myself clear at that time.

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I simply rise to join in the opposition to this amendment which in effect restores the original bill and as I said the other day I feel that this bill in its original form strikes a death blow at the family as a basic unit of society.

I oppose the amendment.

MR. SPEAKER:

Gentleman from the 101st. (1st)

REP. KENNELLY: (1st)

In virtue of the response to my inquiry to the gentleman who brought out the amendment. It seems to me that we have before us the same issue for the same occasion. In effect what we're being asked to do today is to reconsider our previous action and we are clearly and obviously beyond the time during which reconsideration is appropriately before the chamber and I seriously question whether this amendment is properly before this body at this time.

(Tape #3)

MR. SPEAKER:

Gentleman raises a point of order regarding the effect of House Amendment Schedule "B", whether or not the amendment is properly before us or whether the matter should be done as a matter of reconsideration.

Gentleman from the 147th.

REP. BINGHAM: (147th)

Through you, Mr. Speaker, to the Majority Leader--did the

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Majority Leader raise a point of order? (Minority Leader)

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REP. KENNELLY: (1st)

On behalf of this side of the aisle we accept.

REP. STEVENS: (119th)

I object, Mr. Speaker.

REP. KENNELLY: (1st)

I had intended to formally raise a point of order and I do so sir at this time. I so raise a point of order, Mr. Speaker.

MR. SPEAKER:

Chair would invite debate on the point of order, gentleman from the 35th, the introducer of the motion or the gentleman from the 1st to raise the point.

Gentleman from the 1st.

REP. KENNELLY: (1st)

Mr. Speaker, the point of order is well taken, having raised it, and I think the record that we have before us pursuant to my inquiries, my question was, is the effect of this amendment to restore the bill to its original file status prior to adoption of House Amendment Schedule "A" and the unequivocal and clear response was, yes. That obviously puts us in a position of considering precisely what we have previously considered and in effect makes this a reconsideration of a prior action---reconsideration of House Amendment Schedule "A".

We are several legislative days beyond the session day during which we considered House Amendment Schedule "A", so in effect we have before us the motion to reconsideration which is not properly before us at this time.

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MR. SPEAKER:

Will you remark further on the point of order.

Gentleman from the 39th.

REP. SULLIVAN: (39th)

When the sponsors of this amendment decided to hopefully amend the present proposed bill as amended it went to the Legislative Commissioner's office and they told us that it was a proper technique. I have to assume that the Legislative Commissioner's office is not advising illegal ways of amending a bill.

MR. SPEAKER:

Lady from the 98th.

REP. GRISWOLD: (98th)

Mr. Speaker, I rise to oppose this amendment-----

MR. SPEAKER:

Question is on the point of order.

REP. GRISWOLD: (98th)

Pardon me.

MR. SPEAKER:

Gentleman from the 93rd.

REP. STOLBERG: (93rd)

Mr. Speaker, it would seem the point of order is well taken. Certainly if we were still in the same debate day an amendment being adopted and a second amendment returning the bill to its original form would clearly be out of order. The fact that several session days have passed does not alter the situation. It does do away with possibility of reconsideration and I would

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urge you to rule the point of order well taken. hw

MR. SPEAKER:

Gentleman from the 78th.

REP. VICINO: (78th)

I was not here during the last session. I was attending a committee meeting but I thought that no action was taken on the bill as it was originally proposed. It was only amended. If that's the case it would seem that since we didn't act on it, it's not up for reconsideration. We're only here to act on the bill for the first time now.

MR. SPEAKER:

Gentleman from the 87th.

REP. CRETELLA: (87th)

Mr. Speaker, I rise in support of the point of order which has been made and I think that it could be simply stated. We had a bill before us, an amendment was proposed, the amendment was adopted, and now you seek to remove the amendment which was adopted. It seems clearly to be a matter of reconsideration and I think that the points of order which were taken are well made.

MR. SPEAKER:

Gentleman from the 109th.

REP. RATCHFORD: (109th)

Mr. Speaker, reluctantly I agree with the point of order as made. The amendment as offered last week, not yesterday, and reconsideration is limited to the next session day. Struck all after the enacting clause and substitute in lieu thereof,

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a 7 or 9 page amendment. In so doing we in effect rejected the bill in its original form which was an action and substituted for it the bill in the new form. What we attempt to do now is to go back and undo that vote and clearly this is an open attempt to reconsider exactly which was the response of the proponent of the amendment, our previous action.

I happen to support the bill in its original form but I think it's important to respect our rules. Our rules clearly limit reconsideration to the next session day. We now have passed that by some 2 or 3 session days.

I think the point of order is well taken.

MR. SPEAKER:

Will you remark further on the point of order. Gentleman from the 104th.

REP. KENNELLY: (104th - 1st)

Mr. Speaker, I would refer you sir to Masons, Section 451, on page 303, section 1 thereof. I think it controls and if the Chair would examine my citation, I think it would support my position on the point of order.

MR. SPEAKER:

Will you remark further on the point of order. Gentleman from the 25th.

REP. MORRIS: (25th)

Mr. Speaker, I would like to go along with the --against the point of order, not being in order, I definitely recall when this bill was brought out, that the sponsor of---you know, the person who brought it out, did not get any further than

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making a motion to have it accepted when the amendment was proposed. Now all the discussion was on the amendment with the explanation that it would--if the amendment passed that it would go to the Legislative Commissioner's office and return for debate on the real subject matter. There's never been a debate on the bill (inaudible) but whether or not the amendment is germane or not is another question, but I think the point of order is out of order.

MR. SPEAKER:

Will you remark further on the point of order. Gentleman from the 48th.

REP. BRANNEN: (48th)

Mr. Speaker, although I am in support of the original bill I cannot find justification in the Masons for the striking of the entire amendment. However I cannot consider this as a direct reconsideration either. Therefore I find myself in a quandry at this particular point and I'm not sure what the Chair's action should be. I would like to urge----(MR. SPEAKER: Would you care to clarify that statement for the benefit of the Chair.) In effort to pursue new law I would urge the Chair to consider the amendment in order.

MR. SPEAKER:

Will you remark further. Gentleman from the 90th.

REP. VARIS: (90th)

Mr. Chairman, the day the amendment was discussed there was a large group that weren't able to sit in on the floor for the discussion and it was my understanding that we would have

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the opportunity to vote on this bill and the amendment. Perhaps I didn't understand correctly. I think that those groups that were absent should have an opportunity to be able to vote on the amendment as presented today and I would hope that you would rule favorably. hw

MR. SPEAKER:

Will you remark further on the point of order.

Gentleman from the 10th.

REP. HANNON: (10th)

Mr. Speaker, I think it's quite clear to all of us in the chamber that there has been an attempt, several days late, to restore to its original position the bill that we amended or rather substituted an amendment several days ago. There would be those in the chamber who would argue that they didn't like the amendment, they liked the bill in its original form and today's action is an attempt to do that.

I would offer the following advice to those people to prepare an amendment which perhaps not substantially varied the one that we adopted but varied to such a degree that those people who don't like the one that was adopted several days ago could live with. That would clearly be in order and I support the point of order made by the Deputy Minority Leader.

MR. SPEAKER:

Will you remark further. The Chair has come to a conclusion after review of the amendment, the effect of the amendment submitted by the gentleman from the 35th would be effectively reconsidering the action that was taken on House

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Amendment Schedule "A" adopted last week. The Chair for the benefit of those members would---were interested would cite House Rule 30, Joint Rule 12, and Sections 398 and 451 of Masons Legislative Manual.

The gentleman's point of order is well taken. The amendment is not in order, is not properly before us.

Would the Clerk please proceed with the----gentleman from the 1st.

REP. KENNELLY: (1st)

Mr. Speaker, may I compliment you, sir, on your point of order. Not because I was one who raised it but quite frankly I think it is always difficult for the Chair to rule on points of order. It is particularly difficult when one is ruling on a point of order it affects one's own political brethren and while the gentleman I'm sure is disappointed in the ruling, I'm sure he will join me in complimenting you, sir, on your consideration and in thanking you for inviting debate on a serious and important precedent.

MR. SPEAKER:

Gentleman from the 20th.

REP. MATTIES: (20th)

Mr. Speaker, I would move that we pass temporarily this subject so that the movers of the prior amendment can go to the Legislative Commissioner's office and have our purpose served and get a vote on the amendment----

MR. SPEAKER:

Before the gentleman makes his motion effective, I would

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indicate that there are in possession of the Clerk at this time 1,2,3,4 other amendments and I believe you would have more than sufficient time with those amendments to do what you wish.

REP. MATTIES: (20th)

Thank you.

MR. SPEAKER:

Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, the Clerk has another amendment.

THE CLERK:

House Amendment Schedule "C" offered by Rep. Sullivan of the 124th, to File No. 206, House Bill No. 8235.

MR. SPEAKER:

Gentleman from the 124th.

REP. SULLIVAN: (124th)

May the amendment be read please.

THE CLERK:

Delete Section 43 and renumber Section 44 as Section 43.

MR. SPEAKER:

Gentleman from the 124th.

REP. SULLIVAN: (124th)

Mr. Speaker, what this amendment does is very simply it restores the "clean hands" doctrine to the bill that is before us.

Under the amendment which passed this House last week the defense of recrimination as it is spelled out or as it is referred to in the file was eliminated, and as I pointed out

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at some length last week that means that a person's misconduct cannot be raised as a defense in a divorce action by the innocent party. In other words, if one of the parties to the marriage conduct--contract--engages in adulterous conduct, under the bill as we passed it last week under the amendment--excuse me--as we passed last week, the innocent party cannot raise as a defense to a divorce action the adulterous conduct of the party seeking a divorce.

This amendment would restore that defense to the bill that is before us. I don't like to repeat, and I can't take much time, but I don't particularly like the idea that's involved here completely. But I do feel that in the legislative process one has to make compromises. That's the essence of what we're doing here and I have offered this amendment to make the bill as it is before us palatable to those who share the same position that I do.

I urge passage of the amendment.

MR. SPEAKER:

Gentleman from the 126th.

REP. TEDESCO: (126th)

Mr. Speaker, I rise in opposition to the amendment. While I have great respect for my learned brother from Bridgeport, I feel that if this amendment is adopted, it will bring us right back to where we were before, and I feel that once the objects of a marriage have broken down, although one of the parties may have been guiltier than the other, with respect

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to the relationship there is absolutely nothing to be gained by keeping one of the parties in absolute bondage because he or she has engaged in some conduct that is not palatable to the other party.

I strongly urge defeat of the amendment.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "C".

Lady from the 102nd.

(Tape #4)

REP. CLARK: (102nd)

Mr. Speaker, I wholeheartedly agree with the previous speaker and I would urge the amendment be rejected.

I feel that when the marriage has broken down it should not be--this section should not be used to enslave the other party.

Thank you.

MR. SPEAKER:

Will you remark further on House Amendment Schedule "C".

Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, in view of the House Amendment Schedule "A" and permitting under our practice the defendant in a divorce suit to cross claim using the original grounds of fault, procedurally I do not see the reason for the defensive recrimination and I think Mr. Sullivan's point is well taken.

I have no opposition to the amendment.

MR. SPEAKER:

Will you remark further on adoption of House Amendment

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Schedule "C". If not, all those in favor indicate by saying  
AYE. Those opposed. The NO'S had it.

hw

The amendment is rejected.

REP. BINGHAM: (147th)

Mr. Speaker, the Clerk has another amendment.

THE CLERK:

House Amendment Schedule "D" offered by Rep. Camp, to  
House Bill No. 8235, File No. 140, I'm sorry, the File is 206.

MR. SPEAKER:

Gentleman from the 111th.

REP. CAMP: (111th)

Mr. Speaker, I move adoption of the amendment.

MR. SPEAKER:

Question is on adoption. Would you have the Clerk read  
it or -----

REP. CAMP: (111th)

I would have the Clerk waive reading the amendment.

MR. SPEAKER:

Is there objection to waiving the reading of the amendment  
and having the gentleman from the 111th summarize? If not  
objection, please proceed with your summary.

REP. CAMP: (111th)

Thank you Mr. Speaker. I hope that this is a very  
technical amendment. What the amendment would do is that there  
is a section of law which makes a divorce invalidate a will and  
when they were writing through the bill they didn't put in  
dissolution of marriage next to divorce and included dissolution

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of marriage as well as invalidating a will, and in order that there be no litigation on this question I put in the amendment.

I think it is technical. Is it Mr. Kennelly?

REP. KENNELLY: (1st)

Through you, Mr. Speaker, yes, I'd be prepared to rule it technical, sir.

MR. SPEAKER:

Gentleman from the 111th. Question is on adoption of House Amendment Schedule "D". Will you remark further.

If not, all those in favor indicate by saying AYE. Those opposed.

Amendment is passed.

THE CLERK:

Clerk has another amendment. House Amendment Schedule "E" offered by Rep. Bingham and Rep. Healey to Sub. H.B. No. 8235.

MR. SPEAKER:

Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, this amendment restores to the law--a provision of the law which is now part of the divorce statute which reads "or unless the cause for the dissolution of the marriage arose subsequently to the removal of the plaintiff into this state" which should be added to section 3, after line 56,"that provides" and I think the words speak for themselves.

In section 4, it provides that in the event of the service of a complaint--proceeding for an annulment that is---that the complaint for the annulment shall be served on the other party

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which is a proper omission--admission.

hw

In section 12, which regards the counsel for children it reads "the court may when it is considered necessary in the interest of justice to persons involved or the court shall upon motion of either party" requires the court to appoint counsel for children on the request of either party.

The rest of the amendment, Mr. Speaker, requires at the granting of the divorce that the court may hear witnesses of either party.

These are technical amendments, Mr. Speaker, and I think make the bill a better bill.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "E". Gentleman from the 92nd.

REP. WEBBER: (92nd)

Mr. Speaker, thank you. I found a little difficulty in following Mr. Bingham's explanation and I think most of us did, at least those of us who are not lawyers. But I would ask through you, Mr. Speaker, to Mr. Bingham, do these amendments to a limited degree emasculate the bill where we're literally wiping out the concept, the original concept, of a no-fault divorce bill? If Mr. Bingham would care to answer it, I would appreciate it.

REP. BINGHAM: (147th)

I didn't hear the question Mr. Speaker.

REP. WEBBER: (92nd)

Mr. Speaker, very simply, these amendments that the

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previous amendment which I assumed was a very technical one and the amendment that he just explained which I had difficulty following, will it lessen the impact of the concept of no-fault divorce, I'm fearful of that.

REP. BINGHAM: (147th)

It will not.

REP. WEBBER: (92nd)

Thank you.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "E". If not, all those in favor indicate by saying AYE. Those opposed.

Amendment is adopted.

THE CLERK:

Clerk has an amendment, House Amendment Schedule "F", File No. 206, offered by Rep. Beck from the 54th and Rep. Griswold of the 98th. Would you like me to read the amendment?

REP. BECK: (54th)

Yes please.

THE CLERK:

In section 19, line 414, strike out "the causes for the annulment" and strike out line 415.

In section 20, lines 434, 435, and 436, strike out "the causes for the annulment, dissolution of the marriage, or legal separation"

MR. SPEAKER:

Lady from the 54th.

hw

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REP. BECK: (54th)

hw

Mr. Speaker, the purpose of the amendment is to provide that in arriving at settlement in divorce cases the basis for the settlement be the needs of the child, the needs of the family, the ability to earn, and all the very sensible relevant factors which are now listed in the bill, but the omission of blame, that is to say the circumstances of the breakdown of the marriage.

The reason that we are proposing this amendment is that the breakdown of the marriage which is very complex and long drawn out process should not then become the basis for awarding settlement. As now amended the bill does provide that basis of the divorce can include these factors but the basis for supplying the funds should not be a punitive one, and the purpose of this is to strengthen the family situation after the divorce has taken place.

Mr. Speaker, I would point out that the number of divorces in 1971 was 7,000 and the number of divorces in 1972 is estimated to run probably over 8,000 and that this number of people involved in this very difficult, emotional, tension laden situation requires that we pay attention to the result of the divorce afterward and therefore in the spirit of no-fault we propose this amendment.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "F".

Gentleman from the 126th.

REP. TEDESCO: (126th)

hw

Mr. Speaker, I rise in opposition. I think that this type of amendment, it would eliminate the concept of blame, would encourage frivolous relationships. Conceptionally a party could get married, they could possibly be married one week, and they could go into court and ask for a substantial award of the other party's property and alimony, and I don't think that it would work as (inaudible) of reconciliation either.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "F". Lady from the 54th, second time.

REP. BECK: (54th)

Mr. Speaker, speaking for the second time, I wish to make very clear that the purpose of this amendment is not to deal with the reason for the divorce but rather the reason for the settlement, and quite the reverse, we recognize that the breakdown of divorce is caused by many factors, many situations, not any one particular item which can be singled out, and quite the opposite we are not interested in frivolousness, most certainly not in breaking down family life but rather quite the reverse, in strengthening it. So that our intent is quite the opposite in this amendment.

MR. SPEAKER:

Gentleman from the 124th.

REP. SULLIVAN: (124th)

Mr. Speaker, through you a question to the lady who introduced the amendment. If this amendment is adopted and

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becomes a law, under these circumstances, if one of the parties to the marriage runs off and is gone for 18 months with another man or woman and then comes back in for a divorce, am I to understand that if this amendment is passed, the court cannot take into consideration in making any financial settlement the conduct of the party who ran away? Is that correct?

MR. SPEAKER:

Lady from the 54th.

REP. BECK: (54th)

No, because the divorce would already have been determined based upon the reasons for the divorce.

REP. SULLIVAN: (124th)

Is the answer to this, no, that it cannot be taken into consideration?

MR. SPEAKER:

Lady from the 54th care to clarify it?

REP. BECK: (54th)

In awarding funding it is not to be taken into consideration but in the basis for the divorce it most certainly would as provided in Amendment Schedule "A".

MR. SPEAKER:

Gentleman from the 124th.

REP. SULLIVAN: (124th)

Mr. Speaker, I oppose the amendment because what it does is leave the innocent party completely at the mercy of the court when the innocent party has been victimized in a marriage.

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Gentleman from the 147th.

hw

REP. BINGHAM: (147th)

Mr. Speaker, in passing House Amendment Schedule "A" we eliminated this amendment and it was in line 397 of file 142 which had that the causes for the marital breakdown may be considered, and I point out, Mr. Speaker, that the House has already voted on this.

MR. SPEAKER:

Gentleman from the 136th.

REP. NEVAS: (136th)

Mr. Speaker, I didn't think it possible that during the course of this debate today or perhaps last week that Mr. Sullivan and I could agree. But I now find ourselves in agreement. I oppose the amendment. I need not remind this House that last week I spoke very strongly and very vigorously on behalf of the concept of changes in our divorce laws, and Mr. Sullivan and I agreed basically on this matter. However, when it comes to the elimination of fault with respect to monetary awards and considerations of alimony, support, custody, then I say that that is wrong. The court must consider those factors and must be in position to make a judgment based on the total conduct of both parties, and I think it would be wrong and improper and bordering on the unjust if the court were not able to do so, and I oppose the amendment.

MR. SPEAKER:

Lady from the 98th.

REP. GRISWOLD: (98th)

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I too support this amendment. I feel very strongly that to have a family, children, living with whichever parent is given custody on money from the other parent which may have come because of fights and will follow that family unit right to the end of time.

hw

I think we are trying to say that once a dissolution of marriage has been decreed then the court must take into consideration the lifestyle for those--the two sides of the decree. But they must not keep forever after in front of that family and especially of the children whose fault it was and so and so gets a lot of money because the other guy was at fault.

I think this is very bad for children to have hanging over them. I urge passage of this amendment which would alleviate this.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "F". Gentleman from the 86th.

REP. BROWN: (86th)

Mr. Speaker, I rise in opposition to this amendment. I wish to associate myself to the remarks made by Rep. Sullivan. I think this would be completely unfair to the innocent party if we pass it. Thank you.

MR. SPEAKER:

Gentleman from the 135th.

REP. FREEDMAN: (135th)

Mr. Speaker, reluctantly I must oppose this amendment. At stake here is a question whether a judge has the right to

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(Tape #5)

take into consideration the conduct of a party in making an award of alimony. Clearly the law of this state holds that the court ought to know whether a woman or a man about to receive alimony has been guilty of misconduct. Clearly this law should be continued by this body. No one ought, under any circumstances, to be allowed to flaunt their misconduct before the court and then be rewarded by payments from the other party.

hw

We have heard arguments that we are either limiting or doing away with the fault concept but clearly, Mr. Speaker, in any question of custody which must arise before the court there is no question that the court must consider the conduct of the parties in determining which party shall receive custody and which party shall not.

Since we recognize that in all custody situations the question of misconduct must be considered, it is sheer nonsense to say that we may award sums of alimony without considering it and for this reason, Mr. Speaker, I consider this a bad amendment which will in reverse terms make a good bill bad.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "F". Lady from the 98th for the second time.

REP. GRISWOLD: (98th)

Thank you Mr. Speaker. I just rise to point out that this amendment does not mention the custody of the child, that the custody has already been awarded with consideration of many factors. This is simply a question of alimony and alimony can be a very, very destructive thing and can cause a great deal

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of ill feeling if it is overdone, if it is not done fairly, and when one takes into account all the emotional factors and I have never seen a divorce yet and I've had one in my family close to me, I've never seen a divorce yet where there weren't two sides, and I just don't like the idea of soaking one person \$50,000 a year which I have--one person I know very well has. She has an alimony of \$50,000 a year and she inherited a million dollars. Now I just don't think that's right. She won't remarry because she would lose the \$50,000. Relax gentlemen.

MR. SPEAKER:

Will you remark further. Gentleman from the 70th.

REP. AVCOLLIE: (70th)

Mr. Speaker, I'd like to point for Mrs. Griswold's benefit and particularly for the benefit of her friend or her friend's husband that under this act that we're now considering, section 44, if passed, she may go back into court under the new grounds we're adopting and particularly under the grounds which you wish to throw out and get that order modified, then perhaps she won't be in such a good situation.

MR. SPEAKER:

Will you remark further. If not, all those in favor of House Amendment Schedule "F" indicate by saying AYE. Those opposed.

The amendment is lost.

Clerk call the next amendment.

THE CLERK:

House Amendment Schedule "G" to Sub. H.B. No. 8235 as

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amended, offered by Rep. Avcollie of the 70th district.

Shall I read the amendment?

REP. AVCOLLIE: (70th)

If you will.

THE CLERK:

In section 19, line 413, after "court" insert "after hearing the witnesses, if any, of each party"

In section 20, line 433, after "court" insert ", after hearing the witnesses, if any, of each party"

REP. AVCOLLIE: (70th)

Thank you. Mr. Speaker, I move adoption of House Amendment Schedule "G".

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "G". Will you remark.

REP. AVCOLLIE: (70th)

Yes Mr. Speaker. This amendment addresses itself to the same two sections which Amendment "F" which has just been defeated addressed itself to with regard to awarding of property settlement or alimony, and basically it inserts a requirement that prior to the court making an award or a decision on the basis that are enumerated that it will in fact hear the evidence submitted by the witnesses.

I feel this is necessary because section 39 of the file indicates that the judge may at his complete discretion either hear witnesses or waive them with regard to the granting of the divorce, so that it's very possible that after hearing the

hw

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parties the judge may grant the divorce subsequent thereto when he's making a judgement on alimony and support or alimony and property rights, he will not have heard witnesses, and I think it's important that prior to making a determination here, he hears someone other than the parties to the divorce themselves.

I believe this is a technical amendment in a way, Mr. Speaker, and makes the bill a little bit better and guarantees the rights of both parties.

I would urge its adoption.

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "G".

Will you remark. Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, I accept the amendment and support the amendment.

MR. SPEAKER:

Gentleman from the 136th.

REP. NEVAS: (136th)

Mr. Speaker, through you, sir, may I inquire of the gentleman bringing out the amendment---(MR. SPEAKER: Gentleman from the 136th, please proceed)--through you, sir, may I ask --- through you, Mr. Speaker, to the gentleman bringing out the amendment, Sir, would you tell me whether or not if this amendment is adopted, the court must hear evidence or may it under the section that you cited waive the right to hear evidence, evidence other than that of the complainant.

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REP. AVCOLLIE: (70th)

hw

Under this amendment on the subject of property rights and the subject of alimony it's my understanding and I've made inquiries of the Legislative Commissioner's office that the court would have to hear witnesses and take evidence from both parties.

Section 39 does not contravene that because section 39 relates to hearing--taking witnesses and hearing evidence on the subject of the divorce itself and therefore it's the intention of this amendment to permit each or both parties to submit evidence and have the court hear it on the subject of alimony and property settlement.

REP. NEVAS: (136th)

Through you, sir, another question to Mr. Avcollie.

Would this apply, sir, if an agreement had already been reached by the parties and was submitted to the court for approval?

REP. AVCOLLIE: (70th)

In my opinion, no.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "G".

If not, all those in favor indicate by saying AYE.  
Those opposed.

The amendment is adopted.

Clerk call the next amendment.

THE CLERK:

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House Amendment Schedule "H" offered by Rep. Griswold of the 98th district. Would you like me to read the amendment?

In line 6, in section 6, (sorry) line 149, strike out "the plaintiff" and substitute in lieu thereof "either party"

MR. SPEAKER:

Lady from the 98th.

REP. GRISWOLD: (98th)

I submitted this amendment because I feel that almost it might have been a mistake in drafting the bill. The bill which is before us now says that if the plaintiff does not appear at both conciliatory meetings which have been ordered by a judge, then the proceedings for dissolution of marriage will be continued for another six months after the first three months.

Now I believe that this stipulation should apply to both the plaintiff and the defendant so that the defendant who may not wish for conciliation but may wish to continue the case or the marriage for another six months in hope of some reconciliation, this would give the defendant an opportunity to make the period of trial for reconciliation longer.

I urge the adoption of this amendment to make it fall equally on the plaintiff and the defendant. Thank you Mr. Speaker.

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "H".

Will you remark. Gentleman from the 136th.

REP. NEVAS: (136th)

Mr. Speaker, I rise in opposition to the amendment, Mr. Speaker. If I understand the purport of this amendment by

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inserting the words "either party" here this means that if either party fails to show up for a consultation there's an automatic continuance for six months.

hw

What I can envision, Mr. Speaker, is that a defendant in a divorce action who seeks a delay and stall the proceedings for purposes of negotiation or whatever, all they will have to do now under this provision is simply not show up for consultation on a reconciliation proceeding and the matter will be continued for six months.

In my opinion, Mr. Speaker, what this does is not reform our divorce laws but sets us back about 100 years.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "H". Gentleman from the 48th.

REP. BRANNEN: (48th)

A question ---(MR. SPEAKER: Please proceed) through you Mr. Speaker, as I read line 136 it says "failure of the plaintiff to attend such consultations except for good cause shall preclude further action on the complaint until the expiration of six months and a day". The question is, if the defendant in fact fails to make the consultation does that extend the period to six months?

MR. SPEAKER:

Gentleman from the 136th care to respond?

REP. NEVAS: (136th)

Mr. Speaker, I'm not sure I understand. I think the gentleman referred to line 136 but I don't see any reference to that

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language in line 136.

REP. BRANNEN: (48th)

I'm sorry Mr. Speaker, I have the wrong reference to the bill. If you'll bear my indulgence one minute, all my notes are on the amended bill as I had it in my file.

Line 149, "failure of the plaintiff to attend such consultations except for good cause", my question is, whether or not failure of the defendant to appear would also stay the proceedings to six months.

REP. NEVAS: (136th)

My reading of that section, Mr. Speaker, through you sir, under existing language the answer would be that it could not be delayed, failure of the defendant would not delay the proceedings.

REP. BRANNEN: (48th)

Thank you.

MR. SPEAKER:

Will you remark further. The lady from the 98th.

REP. GRISWOLD: (98th)

Mr. Speaker, these are the same points the two gentlemen have been speaking to about the delay of a marriage. This is the real reason in my heart for putting this amendment in. I would like to avoid when a case for divorce is not mutually agreeable, I would like to make it a little longer period of three months. I would like not to make it possible to have a quickie divorce when one person doesn't want that divorce. So that I am asking that both parties have a way of delaying the progress of a divorce by putting this stipulation in. Thank you.

hw

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MR. SPEAKER:

Will you remark further. Lady from the 54th.

REP. BECK: (54th)

(Tape #6) Perhaps it might be added, Mr. Speaker, that in this case it gives equal treatment to both persons and that we cannot assume guilt until the situation has been in fact decided and therefore equal treatment would be required under normal circumstances.

MR. SPEAKER:

Remark further on adoption of House Amendment Schedule "H".

Gentleman from the 30th.

REP. ARGAZZI: (30th)

Mr. Speaker, I'm opposed to this amendment too. I think if two parties are not going to take advantage of the conciliation services, then to extend it six months just delaying what is an agonizing experience in any case. I don't think the amendment is going to accomplish what it's intended to accomplish. I think it's going to make what has become, in my opinion, a fairly complicated bill even more complicated.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "H". Gentleman from the 135th.

REP. FREEDMAN: (135th)

Mr. Speaker, the difficulty with this amendment is that it does the exact opposite of what we are trying to do here.

Presumably the plaintiff is the person who wishes to get the divorce, the defendant does not. What we are doing if we

hw

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adopt this amendment is giving a weapon to the defendant which the plaintiff obviously does not have. hw

It seems to me that I can therefore associate myself with the remarks of the distinguished Deputy Majority Leader. I think we would be setting ourselves back considerably if we adopt this and I oppose it.

MR. SPEAKER:

Will you remark further. House Amendment Schedule "H".

If not, all those in favor indicate by saying AYE.

Those opposed.

The amendment is lost.

Clerk please read the next amendment. Chair would indicate to the members that since we have come into debate on this subject we have four amendments that were not previously in the possession of the Clerk that had been filed and I would like to call the member's attention to the fact that this particular bill has been on the Calendar for some two weeks. The amendment has been printed all this week and yet on the day of the debate several new amendments come on the floor at the last minute. I think it would help the orderly operation of this chamber if the members were to read their files in advance, get their amendments prepared in advance, and proceed in an orderly fashion rather than coming up with amendments on the floor of the House on the day of the vote on a last minute basis.

The Clerk please call the next amendment.

THE CLERK:

House Amendment, Schedule "I" to Sub. H.B. No. 8235

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offered by Rep. Griswold:

In section 11, line 277, strike out "shall" and insert "may"

MR. SPEAKER:

Lady from the 98th.

REP. GRISWOLD: (98th)

Mr. Speaker, this is my last amendment. It is obviously very short having to do only with one word change, putting in the word "may" for "shall".

Going back to the wording that is in our statute already at the moment, I feel that after the three months of -- period-- 90 days with either the decree for dissolution of marriage or for legal separation has gone forward and the decree has been granted that then, for legal separation, that then one of the parties according to this law may go before a judge and ask for a decree of dissolution of marriage and the way the bill reads now the judge shall, he is mandated, to give a decree of divorce to that couple who have simply up to that moment asked for legal separation. I think the judge should be able to use his discretion at this point whether this couple should have a divorce or whether they should continue with a legal separation.

So I ask for this discretionary power for the judge at this point in history. Thank you Mr. Speaker.

MR. SPEAKER:

Will you remark further on House Amendment Schedule "I".

Gentleman from the 124th.

REP. SULLIVAN: (124th)

hw

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May we inquire of the Clerk, we didn't hear the exact line and section in which this change is made.

MR. SPEAKER:

Will the Clerk please read the amendment.

THE CLERK:

In section 11, line 277, strike out "shall" and insert "may".

REP. SULLIVAN: (124th)

Thank you.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "I". Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, this is a radical change from the present law. Section 11 is almost a codification of the present law. The present law being that in any event that you obtain a legal separation you must obtain a legal separation for one of the grounds set for a year and after the year has passed either party has a right to ask for a divorce and the court shall grant the divorce after the expiration of a year.

Since the legal separation was sought on grounds or one of the grounds in this bill I would say that this further complicates the divorce proceeding and it is a bad amendment and I oppose it.

MR. SPEAKER:

Will you remark further on House Amendment Schedule "I".

If not, all those in favor indicate by saying AYE.

Those opposed. The amendment is lost.

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Clerk call House Amendment Schedule "J".

THE CLERK:

House Amendment Schedule "J" offered by Rep. Coatsworth:

In section 3, line 24, before the word "months" strike out the word "twelve" and insert in lieu thereof the word "six".

MR. SPEAKER:

Gentleman from the 32nd.

REP. COATSWORTH: (32nd)

Mr. Speaker, I would like to withdraw this amendment at this time.

MR. SPEAKER:

Gentleman from the 32nd has withdrawn House Amendment Schedule "J".

Clerk call the next amendment.

THE CLERK:

House Amendment Schedule "K" offered by Rep. Brannen.

MR. SPEAKER:

Gentleman from the 48th.

REP. BRANNEN: (48th)

Mr. Speaker, first I'd like to apologize to this distinguished Assembly for presenting the amendment at this late time. It was my understanding that the first amendment that we heard today was orderly, it was my belief that it was at the time. I still believe that the original bill is probably a better bill than we presently have before us, thus the amendment that is before you at the present time.

This amendment seeks to do and I'll summarize it if the

hw

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body will allow.

hw

MR. SPEAKER:

Is there objection to the gentleman summarizing the amendment? Hearing none, please proceed.

REP. BRANNEN: (48th)

In section 7, in line 183, what I will be inserting is that if both parties freely join the complaint without the introduction of evidence the judge may conclude that the marriage is irretrievably broken and may dissolve the marriage.

It does not remove any of the other causes of action that are presently in the bill. However it does provide the ability for those persons that do not wish to drag their laundry before the public or another person and who both wish to dissolve the marriage may do so by freely joining a complaint, waiting their 90 days, and presenting it to the judge.

Mr. Speaker, I move acceptance of the amendment.

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "K".

Would you remark. Gentleman from the 49th.

REP. MAZZOLA: (49th)

Mr. Speaker, a question to the proposer of the amendment.

This goes right back to the true no-fault concept, does it not?

REP. BRANNEN: (48th)

That's correct.

REP. MAZZOLA: (49th)

Thank you.

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MR. SPEAKER:

Will you remark further on House Amendment Schedule "K".  
Gentleman from the 126th.

REP. TEDESCO: (126th)

I rise in opposition to the amendment. I think the amendment that was recently enacted sufficiently takes care of the problem of airing the dirty linen in public because if it's shown that the marriage is irretrievably broken or that the parties are incompatible, that should be sufficient evidence without going into any of the gory details.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "K". Gentleman from the 138th.

REP. BARD: (138th)

Mr. Speaker, I rise to support this amendment. It seems to me that by virtue of this amendment we have a combination of alternatives that the parties can pick from. There have been so many amendments here and I've been absent from one or two of them but I think that this is a good amendment because it gives an alternative for the parties to decide which way they want to go. I think it preserves our traditional grounds for divorce but also makes this particular route available to those people who would like to do it in this manner.

MR. SPEAKER:

Will you remark further. The gentleman from the 119th.

REP. STEVENS: (119th)

Mr. Speaker, of all the amendments that have come before

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us today, this must be the worst. This is in effect divorce by consent. What it's saying is, that if two people sign a complaint form, file it in the court, that's the end of the matter. The judge has to grant the divorce at a subsequent date.

If anything would perpetrate fraud upon the courts and collusion, it's this type of procedure. You can many times find people who will get together and say, we've had it with our marriage, let's divorce, and fortunately under the present system where they both have counsel, where they both have to go through a certain waiting period, many times the marriages are saved. But to put into law an amendment such as this saying that if both parties join in the complaint, the courts shall without any evidence absolutely grant the divorce, is to my mind certainly not what we want to do in the State of Connecticut.

This amendment would give us the easiest divorce law in the country and would certainly make us a mecca for those people who want to flock here, sign a paper, and dissolve their marriage.

I think it's a poor amendment and should be rejected out of hand.

MR. SPEAKER:

Will you remark further on adoption of House Amendment Schedule "K". Gentleman from the 20th.

REP. MATTIES: (20th)

Mr. Speaker, I rise in support of the amendment. I believe the reason we have gone into this legislation is to create a no-fault divorce and this amendment does this, therefore I

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support it.

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MR. SPEAKER:

Will you remark further on House Amendment Schedule "K".  
Gentleman from the 35th.

REP. DeMERELL: (35th)

Mr. Speaker, I move the vote on this amendment be taken  
by roll call.

MR. SPEAKER:

Question is on a roll call vote. All those in favor  
indicate by saying AYE. More than 20% having indicated the  
desire for a roll call, a roll call will be ordered. The  
Clerk please announce it.

For the benefit of those members who are returning to the  
chamber, the House is considering House Amendment Schedule "K"  
offered by the gentleman from the 48th.

Gentleman from the 48th speaking for the second time.

REP. BRANNEN: (48th)

Thank you Mr. Speaker, speaking for the second time.

I'd like to clarify a few things about this amendment  
that seem to be unclear in some accusations--I shouldn't say  
accusations--statements made by the distinguished Majority  
leader.

First off, one would still have to be a resident of the  
State of Connecticut for one year to file for dissolution of  
marriage.

Secondly, there would still be the 90 day cooling off  
period mandatory under the present statute to wait for dissol-

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ution of the marriage.

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Thirdly, there would still be the opportunity to (inaudible) under the six month reference section 6.

What this does do and I'm not an attorney so I'm not sure I can use the attorney's language, what this amendment does in fact do is allow both parties who usually sign the complaint or freely move with the complaint do not have to present evidence as to why there is irreconcilable difference.

I asked the question earlier of the distinguished chairman of the Judiciary Committee at a hearing at caucus and I was told that if both parties in fact did sign the complaint or did wish to have the marriage dissolved that in fact the judge in all probability would dissolve the marriage.

What this amendment in fact says is that the marriage will be dissolved if both parties in fact wish it to be. I do not see that this moves or hinders the laws of Connecticut in any way and I believe that except the fact that people do wish to part on occasion and that people that have considered the fact of being married also have considered the fact of being divorced and as such should have their considerations taken into view.

The present time, the present wishes, or under the present bill, if a person wishes to seek a divorce signs a complaint, they mutually sign a complaint and come into court they have to present evidence as to why there is an irreconcilable difference. They don't like the way they look at each other; they don't like each other's bathrobes; what is irreconcilable difference and for that statement to be made, for that judgement to be made

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(Tape #7)

by a judge of a court, I'm not sure that that is the type of judgement that I would like to see in the State of Connecticut and I think that's one that should be made by the parties.

Thank you Mr. Speaker.

MR. SPEAKER:

Gentleman from the 82nd.

REP. EVILIA: (82nd)

Mr. Speaker, I rise in support of this amendment and I think although I will not vote for the bill if this amendment should pass, I think this is the question before us today, whether we should vote for a no-fault divorce or not. I do not intend on supporting either one of the two measures but we should have a bill before us that we can clearly make a choice and not have a bill that's just going to muddy up the situation and no one is clear on just what we're going to do with it.

I support this amendment and let's get down to a vote as to truly whether we want no-fault divorce or not.

MR. SPEAKER:

Gentleman from the 126th.

REP. TEDESCO: (126th)

Mr. Speaker, I'd like to point out one thing. The amendment that was enacted liberalized the divorce laws in this state to a very large degree. Parties do not have to go through the torturous process of long litigation if certain factors are shown. Under this new amendment that's proposed we have to keep in mind it's going to invite promiscuous relationships

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and that there are going to be a substantial number of young people, emotionally immature people, who suddenly one day without giving anything an attempt are going to sit down and suddenly sign an agreement and say they're going to walk into court and they're going to get divorced.

I suggest the by-product of this is going to be that there are going to be children that are going to be affected and that we should take this into serious account.

MR. SPEAKER:

Gentleman from the 124th.

REP. SULLIVAN: (124th)

Mr. Speaker, this amendment as I read it is simply impossible to carry out. The amendment reads that if the court finds that both parties have freely joined in the complaint it shall without introduction of evidence conclude that the marriage is irretrievably broken down and in the presence of at least one petitioner enter a decree dissolving their marriage.

I simply don't understand how a court can find that both parties have freely joined in the complaint without both parties being there and I don't understand how it can make that finding then without the introduction of evidence.

It seems to me that this contradictory on the face and should be defeated for that reason.

MR. SPEAKER:

Will you remark further on House Amendment Schedule "K".

Lady from the 98th.

REP. GRISWOLD: (98th)

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Mr. Speaker, I'm sorry that I did not catch the words that this amendment would like to change. Could it be read again or, if it isn't too long, I don't know what I'm voting on really.

MR. SPEAKER:

The gentleman summarized previously, the amendment was not read. The Clerk would be happy to read it.

THE CLERK:

In file 206, in line 73, after the word "complaint" insert "by one or both of the parties to the marriage"

In line 86, after the word "confined" add the following "unless both parties have joined in the complaint, a copy thereof shall be served on, or notice given to, the non-joining party or his conservator or guardian if any, in the same manner as process is served on or notice given to a defendant in a civil action"

In line 183, after the word "period" insert the following language "if the court finds that both parties have freely joined in the complaint, it shall without introduction of evidence conclude that the marriage has irretrievably broken down and in the presence of at least one petitioner enter a decree dissolving the marriage"

MR. SPEAKER:

Will you remark further on House Amendment Schedule "K".  
Gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, I rise and strongly urge rejection of this.

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As Rep. Sullivan stated this amendment is impossible to carry out. It would be impossible for the court without a finding to find that the parties have freely joined without the introduction of evidence. It's absolutely impossible to carry out this amendment without destroying a bill and the purpose, I think Mr. Speaker, of the bill and the amendment is to take a step forward in divorce reform. hw

At this particular point, Mr. Speaker, without turning off any of the amendments or any of those people who wish to seek to introduce an amendment, that we're becoming a bit ridiculous.

I urge rejection of this admendment.

MR. SPEAKER:

Are you prepared to vote? The members would please take their seats, non-members come to the well, members would please remain in their seats, machine will be open. Has everyone voted? Machine will be closed. The Clerk will please take a tally.

Gentleman from the 97th.

REP. CANALI: (97th)

Mr. Speaker, may I be recorded in the affirmative, please.

MR. SPEAKER:

Gentleman from the 97th is shown as not having voted on the tally machine and wishes to be recorded in the affirmative.

MR. SPEAKER:

Gentleman from the 89th.

REP. DICE: (89th)

Mr. Speaker, may I be recorded as voting in the affirmative.

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MR. SPEAKER:

Gentleman from the 89th is shown as not having voted on the tally machine and wishes to be recorded in the affirmative.

Gentleman from the 3rd.

REP. LaROSA: (3rd)

Mr. Speaker, I'd like to be recorded in the negative.

MR. SPEAKER:

Gentleman from the 3rd is shown as not having voted on the tally machine and wishes to be recorded in the negative.

THE CLERK:

Total Number Voting.....	146
Necessary for adoption.....	74
Those voting Yea.....	33
Those voting Nay.....	113
Absent and Not Voting.....	5

MR. SPEAKER:

The amendment is lost.

Members will remain in the chamber, we'll proceed to the vote on the bill as adopted by House Amendments Schedule "D", "A", "E", and "G".

Will you remark on the bill as amended.

The gentleman from the 147th.

REP. BINGHAM: (147th)

Mr. Speaker, I urge adoption of this bill as amended.

This bill as amended takes a great step forward in divorce reform in the State of Connecticut while yet preserving some of the traditional grounds for divorce which many people in this chamber feel are necessary to an equitable and just divorce

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law.

hw

Let's examine what the divorce law was before the introduction of this bill as amended. Before this bill as amended was introduced and brought before this chamber the divorce law was unrealistic. The breakdown of marriage was purely on fault and now the breakdown of marriage can be brought before this court on irretrievable breakdown of marriage, the real ground of marriage, or separation for eighteen months without any possibility of reconciliation. This is indeed a great advance in divorce reform.

The divorce law before this amendment was harmful to the parties and to the children. If the parties wish now to obtain a divorce on the grounds of irretrievable breakdown, they do not get it by consent, but they don't have to enter into an arena which is the arena of combat, an arena purely tugging the children and tearing the children apart because one of the parties wishes to use the children as a hostage for custody matters or the other party wishes to use the children as a hostage for monetary matters.

This bill permits people to act in a civilized manner. This bill realizes and I think that the statistics are important that 90% of the divorces are uncontested divorces, that 90% of the writs returned to the Superior Court are actually uncontested, and what this bill does is, recognize that fact.

I don't think there's a man here who stands for divorce. I don't think there's a man or woman in this chamber who says I support divorce. That's not the issue. The issue is, do we

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have a reasonable divorce law, and I respectfully submit that we have a reasonable divorce law. The prior law was hypocritical and illusory. The prior law encouraged migratory divorce, destructive to the custody of children. The prior law was demeaning to the legal profession because if the people wanted to get a divorce and they wanted to get a divorce on the real ground, irretrievable marriage breakdown, they could not. They had to go under recognized divorce grounds and no matter what any lawyer says in this chamber there were many divorces granted over the objection of one of the parties who said, I simply cannot go in and testify against my partner on that ground and therefore I will get a migratory divorce which as we all know is a terrible thing for children, for support of wives, and for custody decrees. The prior law was an invasion of privacy. This present law is not an invasion of privacy. If a party so choose, they can civilly and rationally obtain a divorce, not divorce by consent, divorce after hearing had, divorce after testimony, whereas the prior law they had to go into court. One of the parties had to go into court and testify as to a marriage fault before every person in the court. That, Mr. Speaker, and people of this chamber, was a terrible thing for many, many people and many people refused to do it.

There are many people and I must say there are many people in this chamber and possibly some of the people here who have obtained an uncontested divorce especially the women, who said it was the most traumatic thing they ever did in their life was to go into a court and recite a lot of grounds about their

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husband which never happened. Under this bill they don't have to do that.

hw

Further, this bill provides for reconciliation proceedings, and those people, and I had objections to both sides of this divorce bill, one side will say it makes divorce too easy, that we will become a divorce mill. Let me point out, Mr. Speaker, that this state will not become a divorce mill. Let me point out, Mr. Speaker, that the one-year residency has been retained. Let me further point out that if one party wishes reconciliation procedures, the court shall order reconciliation. This is an advance.

What if we save this marriage? Isn't that an advance? Isn't that in the interest of the State of Connecticut? Under the prior law we never did that. What if either one of the parties aren't fit to have custody of the children? This particular law provides at the request of the parties or a third interested party that counsel may be assigned for the interest of the children. And after all, what is the state really to protect? The state really is interested in protecting the interest of the children.

That, Mr. Speaker, is essentially the reasons for the divorce law as amended. You may have a divorce on the ground of irretrievable marriage breakdown; you may have a divorce on the ground of eighteen-month separation by reason of incompatibility with no possibility of reconciliation, and if the parties so choose they may proceed on the traditional grounds of divorce.

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Now some people say, and I've heard it said, that this is an emasculated bill. It is not an emasculated bill, and for those people who wish total no-fault I respectfully request that they support this bill because if they vote against this bill, they won't have any divorce reform at all, and the possibility of getting divorce reform may not come for a long period of time. hw

There are other states who followed this procedure. The State of Texas followed this procedure. The State of Texas found that total no-fault divorce was not acceptable to the people or to the chamber, so they added a ground to divorce and they added certain reforms to the divorce bill. There have been certain amendments to the custody and separation and assignment of property and these are all recognized as true advances in the divorce law.

(Tape #8)

Mr. Speaker, I respectfully submit that this bill measures up to what should be a truly good divorce law. The objectives of the law are good. The objectives of a good law should be to preserve viable marriages, that's what this law does. It preserves viable marriages and it recognizes dead marriages.

The divorce law should respect the privacy and integrity of marriage relationship and all the individuals involved, and that's what this bill does. The statute should protect the interest of the children and protect the spouses from rash, impulsive, and coerce decisions. That's exactly what this bill does.

The statute must encourage the spirit of cooperation and

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good faith and efforts to resolve difficult issues of finances and custody and not increase the tension and hostile emotions which inevitably accompany the break of a marriage.

hw

And further, the statute must protect the integrity of the bar and the judicial system, and certainly that's what this bill does.

Mr. Speaker, this is a good bill and I urge its passage.

MR. SPEAKER:

Would you remark further on the bill as amended.

The gentleman from the 109th.

REP. RATCHFORD: (109th)

Mr. Speaker, I rise in support of this bill. I think what it does more than anything else is to remove the fraud from the divorce courtroom that exists today. Nothing that will be said from this point forward is anything new to you because we've debated this twice for a total of approximately four hours.

But let me review for you the current situation in the State of Connecticut. Of the eleven thousand and some odd divorces pending, approximately nine thousand of these are on the basis of intolerable cruelty, and this, Mr. Speaker, in many instances is a sham, is a fraud. It certainly is something that generates disrespect for the law.

I stated the other day for those of you who are not familiar with basic line of questioning that goes on in this type of divorce. I think it's worth reviewing again.

The average uncontested divorce in the State of Connecticut takes anywhere from five to ten minutes, and the line of

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question is as follows: "When were you married? Where were you married? Would you state the names and dates of birth of the children of your marriage, and then as follows, when did you begin to have difficulty? What was the nature of your difficulty?" And more often than not that will be the recitation of one or two or perhaps three unrelated instances during the course of the marriage when perhaps physical abuse has taken place on the part of one party toward the other, or perhaps verbal abuse that has resulted in an impact on the other party. Then the line of questioning: "What effect did this have on you? It made me nervous, I couldn't sleep, I lost weight. When did you separate? Approximately a year ago. What was the effect of that separation? I feel better. No further questions of this witness.

Then a second witness steps on who will recite exactly what the first witness had stated and frequently second hand. Did you see any of these instances? No. How did you become aware of them? The wife made me aware of them. What did she say was happening? She told me that her husband struck you. What effect did this have on her? It seemed to make her nervous, it seemed to cause her to lose weight. Frequently then the judge will say, is there a third unrelated witness? Yes. Would this witness state yes to the same line of testimony that you've heard already? Yes. There's no need to call this witness.

So after hearing from the husband and wife and one party usually related, after hearing about two or three instances

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during the course of a ten or twenty year marriage, after hearing that this made the person nervous or upset or cause them to lose sleep, a divorce is granted.

hw

Now if this isn't hypocrisy, I don't know what is. Frequently as I stated the other day these parties will go to one lawyer to review the situation, the lawyer will say, well, the judge sitting now requires there to be a physical striking, I don't feel you've got a grounds for a divorce, and off that person goes to another lawyer in the same community and recites an instance that didn't happen of a striking that didn't happen, of a nervous impact that didn't happen, and into court they go under oath to recite that this was the instance that caused the person to become nervous and upset. They feel better now that they're separated.

I think if we're going to have respect for the law, I think if there's going to be dignity in the courtroom, I think if lawyers who are (inaudible) divorce matters are to retain their own dignity we need a change. That change is recognized in this improvement in the law.

If the marriage is irretrievably broken down and if both parties recited and if there is most importantly a reconciliation effort which is written into this law, isn't this enough without the fraud, hypocrisy, that we're now required to perpetuate or bring about in the courtroom.

This is the first major change in the divorce law in this state in a century. It's a step towards dignity, toward respect, and toward reality. It's a step away from fraud and

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hypocrisy. It's a step we as the Legislature should take and take now to modernize our divorce laws and I urge this law to be adopted.

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MR. SPEAKER:

Will you remark further. The gentleman from the 80th.

REP. MIGLIARO: (80th)

Mr. Speaker, I rise in total opposition to the amendments and to the bill in its entirety.

I'd like to state my reasons but before I do, Mr. Speaker, I'd like to ask a few questions from my learned colleague, Mr. Bingham, through the Chair please. (MR. SPEAKER: Please proceed) I'm not too great with names---No. 1, through the Chair, through the Speaker, on the eighteen-months separation that has been quoted in the bill, it's my understanding that an individual can leave--one spouse can leave for eighteen months and then come back and on irretrievable breakdown file for divorce, is this so?

REP. BINGHAM: (147th)

No.

MR. SPEAKER:

Gentleman from the 80th.

REP. MIGLIARO: (80th)

O.K. Question No. 2. Do the previous divorce laws, can they be applied, still be applied as well as the new divorce laws being incorporated ----

REP. BINGHAM: (147th)

I'm sorry, Mr. Speaker, I didn't get the question. I was

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listening to another question.

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MR. SPEAKER:

Please repeat the question.

REP. MIGLIARO: (80th)

Second one or first one? (MR. SPEAKER: Second one)

(REP. BINGHAM: (147th) Second one) O. K. What I'm saying is, the present divorce laws as they stand now, they still can be evoked and applied by either spouse regardless of the new laws that are being --- well, I can use the phraseology and start in the "new divorce law", no-fault divorce law, if you still want to go under intolerable cruelty and still air your dirty linen, you still have this right. Am I right?

REP. BINGHAM: (147th)

You still have this right and I know of no way to stop people from tearing each other apart if they so wish to tear each other apart.

REP. MIGLIARO: (80th)

But this law will not--through the Chair, I'm sorry--this law will not prevent this, the new bill. The new divorce no-fault bill will not prevent---

REP. BINGHAM: (147th)

That cannot be answered yes or no. This bill will permit civilized people, if they so wish, to proceed on the ground of irretrievable marriage breakdown or eighteen months separation and it further provides for reconciliation procedures and counsel for the children.

REP. MIGLIARO: (80th)

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Thank you. I have no more questions but I would like to go further, Mr. Speaker. It is for these reasons we are not accomplishing a thing with this new no-fault divorce law. No. 1, I think the main thing we're all concerned about is the protection of the spouse, whether it be male or female. I think the rights of the individual that go into a court and be judged on the case, and it took over two hours here of legal terminology, phraseology, which was way out of my line, believe me, and many others that are sitting here, I can just imagine what will happen in a court of law with this new no-fault divorce law because there's still going to be opinions and many opinions in court on what the legal terms are.

I think if we were sincere on enforcing a divorce law to protect the individuals involved, I think all that we had to take into consideration as far as I'm concerned is that when two people apply for a divorce that both of them be judged on equal grounds, whether it be male or female, and that the same rights from the courts be given to the male as well as the female, and I think this is all that it boils down to. We are not going to stop anyone from airing their dirty linen if they want to. If they're going to do it, and if alimony is involved, you can rest assured they are going to air it.

I think the biggest thing that we're not taking into consideration is the fact that the children are going to suffer in this and they're going to suffer greatly, and we're not doing anything to prevent that, in my mind we're not. Because we're still leaving the book open to the old road. You don't

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build new highways in your state to use the old roads, and I think the intent here as far as I'm concerned, if we're really concerned about giving the people the right to go in front of the judge and two people to say, well I am right in this divorce, regardless of your sex, and I've heard this used so much in the last few months, ERA and what have you, well here we are right back to it.

hw

I think that the male should have as much protection as the female and this is all we're asking for, and in this particular area I think the bill should have just been brought up that the courts would take into consideration the testimony and the creditably of a male as well as a female.

I urge the people in this room and this Assembly not to vote for the bill, not to vote for the amendments, because it is not a true no-fault divorce law and we don't need that type of law in the State of Connecticut.

MR. SPEAKER:

Lady from the 54th.

REP. BECK: (54th)

Mr. Speaker, I would like to quote to this General Assembly a very brief statement from the Connecticut Bar Journal, the Family Law Committee, proposal for revision of the Connecticut statutes relative to divorce and I would like to thank many of the men in this General Assembly for helping to bring about a compromise today which would move the divorce statutes forward, protect the interests of women, and respect the integrity of marriage both as it exists and as it begins to dissolve.

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In the statement presented in the Bar Journal the Family Law Committee and the Connecticut Bar Association reviewed the reason for no-fault divorce and they pointed out citing the case of Griswold Vs. Connecticut that Justice Douglass in delivering the opinion of the court stated "we deal with the right to privacy, older than the bill of rights, older than our political parties, older than our school system, marriage", and it continues, and I would like to end that quote with a comment of the Bar Association sub-committee "the invasions of privacy in divorce contests are far greater than those struck down in (Griswold), no matter what the outcome of the contest may be these invasions can only demean marriage relationship and humiliate the parties and in establishing the criteria for a good divorce law that sub-committee stated what I would like to say of the basic intent of the bill "the statute must seek to preserve viable marriages but where a marriage has broken down beyond repair the statute should enable the empty legal shell to be destroyed with the maximum fairness and the minimum bitterness, distress and humiliation and with justice to the parties, to the marriage, and their children."

The procedure must not exacerbate the tension and hostile emotions that inevitably accompany the breakup of marriage.

The statute should protect the integrity of the bar and the judicial system and encourage respect for the law and I think this statute although it is not perfect represents a meaningful competent compromise and a meaningful step forward of the (inaudible) citizens of Connecticut and I would certainly

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like to express my deep appreciation for this bill and support for its basic intent and outline.

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MR. SPEAKER:

Lady from the 98th.

REP. GRISWOLD: (98th)

Mr. Speaker, I rise to say ditto, ditto to Rep. Beck's thanks to the gentlemen in this chamber who have worked so hard to try to get the step forward in divorce laws.

I am impressed at this moment very much by the four or five of the practicing lawyers in this chamber who have spent a great deal of time working on this and it was told those of us interested in this law over and over again the importance of doing away with the necessity of lying, perjuring, cheating to get a divorce in this state.

I am very impressed beginning with the ex-Speaker Ratchford going to Mr. Bingham who have worked hard to make this bill suitable to many sides.

Especially I would like to point out that Rep. Bingham has given great consideration to the causes of the children who will be concerned in this new move in divorce.

There may be more divorces and if there are more divorces there will be more children who need custody and who need care and who may have to be taken care of by welfare.

Rep. Bingham has told me that he will have his committee work on setting up a joint committee on welfare and judiciary to consider the problems of these children and the enforcement of support for children who may need welfare care.

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I thank these gentlemen and I hope all of us will vote for the bill.

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MR. SPEAKER:

Gentleman from the 135th.

REP. FREEDMAN: (135th)

Mr. Speaker, like others in this chamber this bill also bears my name. It is not everything I would have liked but it is a considerable step in the right direction. Reasonable political activity we learn always brings compromise and we know that it's the life's blood of a viable legislature.

(Tape #9) This bill is, I believe, a very considerable step in the right direction. It will make possible a civilized proceeding in our courts. More important, however, it will allow a recognition of reality, by our legal system in recognizing the social destruction of marriage for what it is really is.

If we, Mr. Speaker, advance the cause of truth and the cause of justice just one small step, I believe we have indeed taken a giant step.

This bill takes that giant step. It takes it, I think, in the right direction. At this time I don't believe we have a right to expect any more and I don't believe that we should expect or accept any less.

MR. SPEAKER:

Gentleman from the 70th.

REP. AVCOLLIE: (70th)

Mr. Speaker, I rise in strong support of this bill and as one who would have certainly been unalterably opposed to the

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first measure which appeared in our files.

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Very seldom that compromise makes either side happy and in fact it's been said that a good compromise is one in which neither side is particularly happy or completely satisfied. But frankly after having served in this House for seven years I can say without equivocation that this is the best effort of compromise that I've ever seen and certainly should make those of us on either side of this question and this issue evidently happy.

In the first place, Mr. Speaker, contrary to what's been said by one of our honorable representatives, it does in fact for the first time in Connecticut's history treat men and women equal. It does provide that the court look at them not as men and women but as parties and look at their various obligations in their various capacities with respect to earning and all the other aspects that should be considered.

Secondly, and for the first time in the history of the State of Connecticut this bill enters language designed to protect the children of the marriage and specifically provides that counsel may be appointed towards those ends.

Thirdly, for the first time in the history of the State of Connecticut it provides for reconciliation attempt through the court, a formal reconciliation attempt which will in fact utilize competent professional people towards that end.

Mr. Speaker, in that vein it certainly will go a long way towards preserving good marriages, and lastly, it provides two grounds, irreparable damage, and the eighteen month ground which

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would in fact eliminate the fraud referred to quite adequately by Rep. Ratchford and others and which would permit us to bring divorce grounds and divorce actions without the necessity of the fraud that does go on at the present time.

In short, Mr. Speaker, this bill maintains and continues the traditions and the good aspects of the legislation that we've had on the books for two hundred years and it inserts new grounds and new aspects which will protect the husband, protect the wife, protect the children, and most important, protect the institution of marriage.

I think this is an outstanding job to the credit of Chairman Bingham and those that have worked with him and I support it wholeheartedly.

MR. SPEAKER:

Gentleman from the 50th.

REP. BLUMENTHAL: (50th)

Mr. Speaker, I support this bill also but I think in supporting the bill and the good points of it, the reconciliation, the counsel for children, the removing of fraud on the court, we must also realize that here we're treating a symptom, divorce, a symptom of a sick family, of a marriage that's broken down, and I would hope that our Judiciary Committee in this chamber, in this Assembly, would address itself to the problem of the family breakdown and revise not only our divorce laws but revise our marriage laws and our system.

As I said many times in somewhat of a joke but maybe it's true, that maybe it should cost \$500 or \$1000 to get married

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and \$5.00 to get divorced. Maybe we've got the figures reversed but I think we certainly have to work on trying to preserve and to see that marriages entered into are much more lasting than the ones we have now.

I support the bill.

MR. SPEAKER:

Gentleman from the 32nd.

REP. COATSWORTH: (32nd)

Mr. Speaker, very briefly in support of this bill I'd like to associate myself to the remarks of Mr. Avcollie of the 70th district who eloquently summed up many of the rational reasons for support of this bill, many of the honest, the honest provisions of the bill which will make the proceedings in divorce court, as it's commonly called, much more sensible, rational and civil.

I think this bill goes along way to correct some of the problems that we have had in the courts in this state for the past couple of hundred years and the legislation that is before us today is long overdue.

MR. SPEAKER:

Will you remark further. The lady from the 102nd.

REP. CLARK: (102nd)

Mr. Speaker, I'm very grateful to Rep. Bingham for all the hard work that he's put in to bringing forth this compromise.

It certainly is a step in the right direction and I align myself with all of the comments that he has made, that Rep. Freedman has made, and Rep. Beck, and so many of them who worked

hw

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very hard on this. I urge you to vote favorably on this bill. hw

MR. SPEAKER:

Chair will ask the Clerk to announce on the outside speaker that an immediate roll call will be held.

Gentleman from the 82nd.

REP. EVILIA: (82nd)

Mr. Speaker, a question through you to Mr. Bingham.

MR. SPEAKER:

Please proceed. Gentleman from the 147th, a question.

REP. EVILIA: (82nd)

Mr. Bingham, can you tell me if there are any figures or estimates as to how many marriages are saved because of the tough or difficult requirements that we have to go through to get a divorce presently.

REP. BINGHAM: (147th)

Under the present divorce law?

REP. EVILIA: (82nd)

Yes.

REP. BINGHAM: (147th)

Few, if none.

REP. EVILIA: (82nd)

I will have to disagree with you. I think that's probably saved a number of marriages with the thought that you have to actually say things about your spouse that probably aren't true and you reconsider your action and you think about it and you probably do reconcile your differences and come back together.

MR. SPEAKER:

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Will you remark further. Gentleman from the 122nd. hw  
REP. BEVACQUA: (122nd)

Mr. Speaker, I cannot support this bill although I commend the tireless efforts on the part of Rep. Bingham and the Judiciary Committee and I'll echo the comments that have been made here this afternoon concerning all the work and all the anguish that went into the preparation of this bill.

But in my judgement this bill further discourages the need for careful and thoughtful consideration before entering into marriage. Great numbers of young people today enter lightly into marriage since there's an obvious knowledge that divorce or the dissolution of that marriage is so easy. Those who want to enter a marriage contract need to understand that there must be an attitude of permanence to their action, that marriage needs to be worked at and can't be entered into with an underlying knowledge that there's an easy out.

More attention needs to be paid to marriage and the serious responsibility that marriage brings to both parties, particularly to offspring of that marriage. What we're doing here today is making marriage an interlude rather than an agreement to earnestly strive to developing a family unit to further our human race and future productive generations. Each generation is responsible for passing on codes of practice, moral and ethical conduct which insures the same successful future as we received from our forefathers who regarded marriage in far higher esteem than we do here today.

MR. SPEAKER:

Will the House please come to order and give your attention to the gentleman.

hw

All members please take their seats, non-members come to the well.

Will you remark further on the bill as amended.

Chair will rule Amendments "D", "E", and "G" technical for the record.

Are you prepared to vote on the bill as amended by House Amendments Schedules "A", "D", "E", and "G".

If all members would please return to their seats.

Machine will be open. Has everyone voted? Machine will be closed and the Clerk please take a tally.

ASS'T. CLERK:

Tally on House Bill No. 8235 as amended:

Total Number Voting.....	147
Necessary for Passage.....	74
Those voting Yea.....	123
Those voting Nay.....	24
Absent and Not Voting.....	4

MR. SPEAKER:

The favorable report is accepted and the bill as amended is passed.

Gentleman from the 1st.

REP. KENNELLY: (1st)

Mr. Speaker, would the Chair entertain an announcement.

MR. SPEAKER:

Please proceed.

REP. KENNELLY: (1st)

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Calendar No. 139, Substitute for H.B. No. 8235, an Act concerning the dissolution of marriage. It's in File 142, 206 and 271. The House adopted House Amendments Schedules A, D, E and G. The Senate passed the bill with House Amendment Schedule D and Senate Amendment Schedule A. A favorable report of the Committee on Judiciary.

MR. SPEAKER:

The Chair would like to point out to the Members the procedure with this particular bill. The House has adopted four amendments. The Senate passed the bill with House Amendment Schedule "E" and Senate Amendment Schedule "A". Senate Amendment Schedule "A", in effect, rejected House Amendments A, E and G. In accordance with the procedure as outlined in Rules in Section 767 and 768 of Mason's Manual, our procedure would be to first take a vote on the Senate amendment. If the Senate amendment is rejected, this body will inform the Senate, who then would either rescind its prior action or refuse to rescind and request a Committee of Conference. In the event that the Senate amendment is not rejected, then the question for a vote is on the bill as amended by Senate Amendment Schedule "A".

JAMES F. BINGHAM:

Mr. Speaker, I move rejection of Senate Amendment Schedule "A".

MR. SPEAKER:

Motion's been made by the Chairman of the Judiciary Committee for rejection of Senate Amendment Schedule "A". Will you remark.

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JAMES F. BINGHAM:

EFR

Yes, Mr. Speaker. As the Members of this House will recall, a short while ago we debated the so-called, misnamed no-fault divorce bill, and through the usual parliamentary and legislative procedures, there were many people in this House who felt that they could not accept the bill as found in File 206. With that in mind, members of the Judiciary Committee conferred with the opponents of the bill as was reported favorably from the Judiciary Committee. In my opinion the recommendations made by the opponent were good recommendations. They were strong recommendations, and it's very possible that we could not have obtained any divorce reform without the addition of these recommendations to the first file copy. There has been an accusation that the House Amendment has restored to divorce practice the fault system and the system of acrimony. This is patently false. This is not what House Amendment Schedule "A" did. What House Amendment Schedule "A" did was to permit parties who did not seek to achieve a divorce on the fault ground to achieve a divorce on the ground (1) of irretrievable marriage breakdown, or separation for 18 months by reason of incompatibility with no reasonable grounds of reconciliation. Yes, the House Amendment did retain the historic grounds of divorce, and it added these two other grounds, and it was my opinion, and the opinion of many in this House, that unless this bill were amended that way we would have no divorce reform. Further, there were many people who felt that the bill as reported out by the Judiciary Committee would (1) permit consent divorce without any hearing, and, secondly, would permit a divorce over a period of time over the

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objecting party without a hearing. Many people in this House felt they could not accept that. So, I, and many other people, met and brought forth what I consider a good divorce bill. There are now claims that conciliation will be a sham and actually increase animosity. Nothing could be further from the truth, and if you read the file copies as brought out by the Judiciary Committee and the amended bill, we find that they are practically similar. And what is wrong with a party asking for conciliation? The objections now are that conciliation may be used as a stall to prevent a divorce. Well, that's exactly what the party who is seeking reconciliation is seeking. The party who is seeking reconciliation is seeking to keep the marriage together. The party who is seeking reconciliation does not want to have to accept a unilateral divorce over that party's objection, and the objection to the bill was well-taken. If, at the end of a conciliation period, there are no reasonable grounds to reunite the parties, the Court may find, and that's the important word, the Court may find irretrievable marriage breakdown, and that's the way the law should be. This will not bring on acrimony. This will not bring on the old fault system. This prevents just such a thing. It's been alleged that the bill as sent to the Senate would bring on chaos. I respectfully submit that that is not so. The bill is clear as written. A party may bring a writ under irretrievable marriage breakdown and may seek a divorce on irretrievable marriage breakdown. What have we achieved? We have achieved real divorce reform, and we have achieved real divorce reform in the proper manner, because this House has written a bill which is acceptable to the great majority

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of the people in this House, and this bill may not be acceptable to others, and I respectfully submit that if we accept Senate Amendment Schedule "A" there will be no divorce reform...none at all, and there are many people who would like to replace the original bill, or to accept Senate "A", for just that reason. They are against any divorce reform, and be not deluded in the thought that if we accept Senate Amendment Schedule "A" you will have divorce reform. You will not, I respectfully submit. When it's...if we now reject Senate "A", as the Speaker has ruled, the Senate may then reconsider their action. They may recede from their action. If the Senate chooses to recede from their action, the bill will be then passed and sent to the Governor for signature, which I am confident he will sign. If the Senate does not recede from their action, then we will have a Committee on Conference, and that may well be the proper procedure. There may be some things in the bill that the Senate does not consider proper, and certainly we will try to work out any difficulties that the Senate may have, but if this House, today, by this vote, accepts Senate Amendment "A", I am confident that you will have no divorce reform at all in the State of Connecticut this session, and that, in my opinion, would be a tragedy. I'm not married to the words that I wrote, and I don't think anyone else should be married to the words that they wrote. I don't have the pride of authorship. I can accept amendments, and I think others, who have been lobbying for the pride of authorship, should remember that true representation is a meeting of the minds, and possibly you may have to amend your thoughts, and possibly you may have to accept an amendment, and

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this is the proper way...this is the proper way to legislate. Mr. Speaker, I urge this House to reject Senate Amendment "A". EFR

MR. SPEAKER:

Question is on rejection of Senate Amendment Schedule "A".

SAMUEL S. FREEDMAN:

Mr. Speaker, I rise in support of divorce modernization and divorce reform and against Senate Amendment "A". I am persuaded that modernization will not come about through accepting the Senate Amendment. One Senator told me after voting "no" on Senate Amendment "A" that the reason for the "no" vote was because that Senator wanted divorce reform and realized that Senate Amendment "A" was the way to defeat<sup>of</sup> the bill ultimately. I believe that Senator was correct. I accept that version. I will, today, support the Chairman of the Judiciary Committee. I believe a Conference Committee is the way to get modernization of divorce, and I would urge everyone in this Chamber to vote "no" on Senate Amendment "A".

CARL R. AJELLO:

Mr. Speaker, I, too, would like to support the Chairman of the Committee. I think that the approach of a Committee on Conference is precisely the right way to meet this problem at this point. We can debate this here this afternoon until the cows come home, and it won't necessarily have any effect on what action the Senate might take. When we're in a posture like this of disagreement, it's been my experience, and I'm sure those of many Members who have been here for a number of terms, that it's most important

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that everyone sit down and reason together on the bill. I might add parenthetically that it's also my feeling that were we to go ahead and re-debate the entire matter today, we would spend an awful lot of time doing this, possibly without adequate facts at our disposal with which to make judgements. There has been circulated extensively through the House today a statement by the Connecticut Bar Association, which we have determined, at least in our own judgement, contains some inaccuracies and some misstatements of what the bill contains or did contain or is supposed to contain. I think that the...that's the Bar Association's (inaudible), but to the extent that it influences, or would influence, our thinking or our discussion here. It does us a disservice to have misinformation on which to base our decisions. I would suggest, and I'll follow my own suggestion by sitting down shortly, that we debate it as little as possible today, because we inevitably will have this subject to discuss again at some length, so I would remind the Members that the best way to get the job done is to reject the amendment, let the Committee work on it and bring back a bill which has a chance of passage.

JAMES T. HEALEY:

Thank you, Mr. Speaker. I support the Chairman of the Committee. I would support the Minority Leader. I feel that we have this position of confrontation between the Senate and the House. I feel that anything that we attempt to do short of a Committee on Conference will be simply an exercise in futility. Rejection of Senate Amendment "A" will result, undoubtedly, in a Committee on Conference. Any other route would just be wasted

EFR

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time and will mean that nothing happens at this session.

EFR

RICHARD A. DICE:

Mr. Speaker, I must regretfully disagree with the statements that have been made previously. If this body does pass the ...in other words, if it does not reject the Senate Amendment, but passes the Senate Amendment, then we are in a situation that we do and have passed a statute...a statute that the Committee itself considered after long and careful study and brought into this body, and in reviewing the history of that when it was brought into this body it was stated that we needed amendments because where it was stated that we didn't think it would pass on its merits. After that debate and after that discussion, I was a party to and listened to many of the Members here who said, "I would have rather had the original bill." As a matter of fact, yesterday, after the Senate had debated it, I had some opportunity to talk to Members of this body, also, who indicated to me that they felt and liked the original amendment as such. Consequently, I do not think that we should be confused by the details of trying to talk about specific items in the bill itself as to whether or not we have a Conference after so many days, or we do not. I think that if we want true reform rather than something that we say on the face of it is reform or change but still leaves the parties in the gladiator pits, which is what our amendment in the House has done ...it has left the divorce situation in the gladiator pits. Consequently, it would seem to me that we should support the Senate ...Senate's version, and as has been stated elsewhere and I unfortunately don't like the idea of being threatened with the fact

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that if we go along with the Senate that we will have no bill at all. It does seem to me that if we act with the Senate and pass it, we will have something that is a modernization, and if you'll note on it, some of the hue and cries originally considering the bill itself indicated that people were concerned about the breakdown of marriages. If you'll read the item that was passed out to you by the Connecticut Bar, you'll notice on Page 2 that it does refute that and indicates the number of states that have modernized their law. It does seem to me that we are not doing that. What we're doing is we're ending up by fooling the public saying we're doing something with it but still ending up in the gladiator's pit, and as the respectful Chairman of the Judiciary Committee stated on the floor of the House when it was asked, "What happens when you have a counter claim to a complaint of irretrievable breakdown?", it was indicated that you would have a controversy. You would end up in a contested matter, as we endeavored to and wanted to avoid in this statute. It is my feeling, and I believe that what this bill, in effect, does if we support the action of the Senate, is that we cannot, no matter how we legislate it, we cannot, in effect, force two people to live together. If we think that we are, I think that we've missed the point of what happened during prohibition. If we are trying to legislate morays that people are not living by, and if you look at the divorce rates today, we're trying to...we will be making chaos out of a number of people's lives. It is my feeling that this bill should go forward. We should support the Senate, and, in effect, vote down the motion that has been made. Consequently, I respectfully request that

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this House give consideration of supporting the Senate and voting down the motion for it. Thank you. EFR

GERALD F. STEVENS:

Mr. Speaker, very briefly, I join with the Chairman of the Judiciary Committee, the ranking/Minority member, and, also, the Minority Leader, Representative Ajello. I also rise to support rejection of Senate Amendment Schedule "A". I don't think the question before us today is whether or not we can, or should, force two people to live together when the marriage has broken down. I think all in this House would agree that we cannot, and we should not, but the issue before us is how do we determine the route by which they shall legally dissolve the bonds of matrimony, and I think there were legitimate concerns expressed in this House that led to the rejection of the original file bill...legitimate concerns about the marriage, and the family, and <sup>the</sup> filing of a petition, and the allowing of consent to a divorce by individuals that raised serious questions as to collusion, not only on property rights, but on children and the very marriage itself. There's many issues involved here that we should not debate today. This House saw fit to amend substantially this bill. The Senate has now disagreed, and the only reasonable way, in my opinion, to work this out is through a Committee of Conference with Members of the House and Members of the Senate, who are charged, under our Rules, with reporting back to us, and the Members of this House then will have the opportunity to determine whether or not they want the results of the Conference Committee, or some other alternative, or perhaps nothing. But, today, to accept Senate Amendment Schedule "A" and

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bring that to a vote is, in my opinion, the wrong route to take if we truly wish to effectuate some change in our divorce laws. I would urge that we all consider very seriously this vote and reject Senate Amendment Schedule "A" on the motion of the Chairman of the Judiciary Committee. EFR

BERNARD L. AVCOLLIE:

Mr. Speaker, briefly, as a member of the Connecticut Bar Association I want to say publicly, inasmuch as Mr. Dice had put their memorandum into the record of this House, that I'm quite frankly ashamed of it. I can't really believe that any lawyer in his right mind wrote it, and frankly I consider it not a memorandum but a retreat to idiocy, and I'm going to point one area out, and it's certainly an area that should justify us rejecting Senate Amendment, and that's the No. 2 analysis, wherein they state that hearings would be necessary to establish grounds even in situations where there's full agreement on uncontested matters, and I think they is where Mr. Dice is referring to staying in the gladiator pit, and I would refer this House to Section 39 of the file that we passed, in either 206 or 271, and to Section 37, in File 142, which this Bar Association is recommending that we accept. In both situations, that section clearly spells out in almost identical language that what the Bar Association is saying <sup>with</sup> regard to necessity for hearings, with regard to the use of judicial time and expense, is positively, unequivocally, and patently untrue. I don't think we should be panicked by a Bar Association, and I believe the upper Chamber was, and I don't think we should enact law with the Bar Association, or any other lobbyist telling us how to,

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and that's just what the Bar Association is. I urge that we reject the Senate Amendment, sit down in a Committee of Conference in a reasonable, calm manner and pass a law which we'll be proud of.

EFR

MR. SPEAKER:

Question is on rejection of Senate "A".

CHARLES R. MATTIES:

Mr. Speaker, I urge adoption of Senate Amendment "A". I don't believe we should be panicked into voting down an amendment predicated on what may happen to the bill after it leaves here. I feel that it's our responsibility to vote our conviction here and now and see what happens after the bill leaves here. I would also request a roll call vote.

MR. SPEAKER:

Question is on a roll call on rejection of Senate Amendment Schedule "A". All those in favor of a roll call indicate by saying "aye". Necessary 20% having indicated a desire for a roll call, the roll call will be ordered. The Clerk please announce it. Will you remark further.

IRVING STOLBERG:

Mr. Speaker, through you a question to the Chairman of the Judiciary Committee.

MR. SPEAKER:

Please proceed.

IRVING STOLBERG:

Mr. Speaker, I should like to ask, through you, to the Chairman of the Judiciary Committee for a clear definition of exactly what is implied by saying that if, indeed, we accept Senate

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Amendment "A", which would put us in accord with the Senate and pass this legislation, that nothing will be accomplished in this session. I think that should be spelled out more clearly.

EFR

JAMES F. BINGHAM:

There is a further process in the legislative law enacting in order to obtain a law.

IRVING STOLBERG:

Through you, Mr. Speaker, I'm not sure that that's much clearer. To make it more clear, could I ask you specifically whether you have an indication from the Governor of the State that he will veto this if it is passed as the Senate has given it back to us.

JAMES F. BINGHAM:

There are no obscurities in my mind, or in the language, and I don't think there should be any in yours.

IRVING STOLBERG:

Mr. Speaker, as much as I am for reform of our divorce laws in this session, I do not feel any Member of this House should vote predicating his vote on what will take place in the Executive consideration of legislation. Therefore, I will vote against rejection of Senate "A".

MR. SPEAKER:

Will you remark further on the motion to reject Senate Amendment Schedule "A". If not, if all Members would please take their seats, staff members come to the well. The question before the Chamber...motion by the gentleman from the 147th to reject Senate Amendment Schedule "A". If you wish to reject Senate

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Amendment "A", you should vote in the affirmative. If you do not wish to reject Senate "A", but wish to continue with the debate on Senate "A" and the bill as amended, you should vote in the negative. EFR

RICHARD A. DICE:

Just as a point of information. Otherwise, if you vote "no", you're voting for the Senate Amendment and the original bill as was in the file, not as we amended it. Is that correct?

MR. SPEAKER:

Otherwise, if you vote "no", you're voting not to reject Senate "A". Further motions would be necessary if the gentleman from the 147th's motion does not pass.

RICHARD A. DICE:

And, Mr. Speaker, furthermore, if a Committee of Conference was formed with the Senate, there is no assurance, is there, anything will come out of that Conference? Does the Committee of Conference have to report a bill out?

MR. SPEAKER:

The Chair cannot answer speculative questions as to whether or not the Committee of Conference will report or not. It is up to the Committee of Conference.

RICHARD A. DICE:

Thank you.

MR. SPEAKER:

Are you prepared to vote? The machine will be opened. Has everyone voted? The machine will be closed, and the Clerk please take a tally.

ELOISE B. GREEN:

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Mr. Speaker, could I change my vote, please.

EFR

MR. SPEAKER:

The lady from the 69th, having voted in the negative, wishes to be recorded in the affirmative. Does the lady now wish to rescind her request to change the vote?

ELOISE B. GREEN:

I want to reject the Senate Amendment...is what I want to do, and I am a little confused.

MR. SPEAKER:

The lady should be then in the affirmative, and the Clerk will be instructed to change the lady's tally to a "yes" vote.

ROBERT J. VICINO:

Mr. Speaker, may I change my vote to the affirmative.

MR. SPEAKER:

The gentleman from the 78th, shown as having voted in the negative, wishes to be recorded in the affirmative.

RUFUS C. ROSE:

My vote is not recorded. I vote in the negative.

MR. SPEAKER:

The gentleman from the 38th, shown as not having voted, wishes to be recorded in the affirmative...negative. The Chair is in error. How's the Clerk doing?

THE CLERK:

Total number voting-138. Necessary for rejection - 70. Those voting yea - 107. Those voting nay - 31. Those absent and not voting 13.

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MR. SPEAKER:

EFR

Motion to reject is adopted, and Senate Amendment Schedule "A" is rejected. In accordance with the procedures outlined in Mason's, the Chair will now send a message to the Senate advising the Senate of the House's rejection of Senate Amendment Schedule "A". It is my understanding that at that point the Senate has the option either to rescind its prior action or to appoint a Committee of Conference and request a similar Committee of Conference from the House.

THE CLERK:

S.J.R. 83, introduced by Senator Truex and Representative Rose, Resolution congratulating Mrs. Barbara Reimers.

RUFUS C. ROSE:

Would the Clerk please read the Resolution. Do I move for immediate consideration...suspension of the rules for immediate consideration?

MR. SPEAKER:

Question is on suspension of the rules for immediate consideration. Is there objection to suspension? Without objection, the rules are suspended.

RUFUS C. ROSE:

Would the Clerk please read the Resolution.

THE CLERK:

Resolution congratulating Mrs. Barbara Reimers. Resolved by this Assembly, whereas Mr. Barbara Reimers, of Pine Orchard Road, Branford, Connecticut, was elected President of the National School Boards Association at its national convention in

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we've been hearing all day and also the Finance Committee will remain afterwards hopefully for six other bills to be taken up for action at that time. If by chance the session should get over appreciably sooner than 5:00 we may take up to have the meeting earlier. hw

(Tape #12)  
THE CLERK:

Page 30, Cal. No. 139, Disagreeing Action, Committee of Conference, File Nos. 142, 206, 271, Sub. H.B. No. 8235, AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE.

The House adopted House Amendments "A", "D", "E", and "G".

The Senate passed the bill with House Amendment "D" and Senate Amendment Schedule "A".

House rejected Senate Amendment Schedule "A" on April 12th.

Favorable report of the Committee on Judiciary.

MR. SPEAKER:

Gentleman from the 147th.

REP. BINGHAM: (147th)

Yes, Mr. Speaker. I move for acceptance and passage of the bill.

MR. SPEAKER:

Question is on acceptance and passage of the bill. Will you remark.

REP. BINGHAM: (147th)

Yes, Mr. Speaker. May it be noted that the Committee on Conference has reported to the Speaker of the House and that the report has been signed by all of the members of the Committee on Conference.

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Mr. Speaker, the Committee on Conference has met and agreed unanimously, the three members of the House and the three members of the Senate, and we proposed House Amendment "G".

THE CLERK:

Sorry Mr. Bingham, it's "L" because we rejected up through - up to "L" on the other amendments previously, this one will have to be "L".

REP. BINGHAM: (147th)

House Amendment "L".

MR. SPEAKER:

In accordance with the rules the report of the Committee on Conference will be printed in the Journal. Does the gentleman now wish to move adoption of House Amendment Schedule "L"?

REP. BINGHAM: (147th)

I so move House Amendment Schedule "L".

MR. SPEAKER:

Does the gentleman wish the Clerk to read it or would he prefer to summarize?

REP. BINGHAM: (147th)

I'll summarize.

MR. SPEAKER:

Is there objection to the gentleman summarizing House Amendment Schedule "L" which constitutes the report of the Committee on Conference? Without objection, please proceed with your summary.

REP. BINGHAM: (147th)

Thank you Mr. Speaker. Mr. Speaker, House Amendment "L"

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amends your File No. 271. First of all, the request for reconciliation must be made within a ninety-day period or within thirty days whichever is later. This was a request of many members of the bar and many attorneys who felt that a request for reconciliation should be a true request for reconciliation and not merely a delay tactic.

The next provision provides that in the case of an annulment the ninety-day period need not be adhered to and that follows legal principle in that if you are requesting annulment there really is no marriage and that you need not have a ninety-day waiting period or a reconciliation period to comply with.

Now the next provision provides that in an action for dissolution of marriage, if the parties submit a written agreement to the court concerning custody, care, education, and visitation, or support if any, and concerning alimony, the testimony of either party in support of that conclusion uncorroborated by other evidence shall be sufficient to permit the court to make a finding that such marriage breakdown has occurred. In that event the court must appoint counsel for the children to report for the court, and the court will take and accept or take and reject the recommendations of the counsel for the children in its discretion.

The bill further provides that in any case where the court finds after hearing that the marriage has been broken down irretrievable or that the parties have lived apart for eighteen months and there's no possibility of reconciliation or that a cause enumerated in section 10 of your file which lists the present historic causes for divorce, then the court may enter a decree set-

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ting forth the cause of action on which such decree is based or hw  
the court may dissolve the marriage on the basis of irretrievable  
breakdown. In no case in this event shall the decree be granted  
to either party. The defenses of recrimination and condemnation  
to any cause of action for dissolution of marriage are abolished.

The rest of the amendment are technical in nature and seeks  
to carry forth the thrust of the major amendment. The last  
section in the amendment provides that the court in its dis-  
cretion may require any number of witnesses or one witness which-  
ever in its discretion it deems fit.

That, Mr. Speaker, is the essence of the report of the Com-  
mittee on Conference and House Amendment "L" and I urge its  
adoption.

MR. SPEAKER:

Will you remark further. The gentleman from the 104th.

REP. AJELLO: (104th)

Mr. Speaker, just briefly to speak in support of the amend-  
ment and to say that I think the proponent of the amendment and  
the Conference Committee have struck a fine balance between the  
opposing views as to the liberal and more conservative views of  
what reform should be and I think it will be effective and I would  
like to be recorded as being in favor of the amendment and the  
bill after the amendment has passed which I hope that it will.

MR. SPEAKER:

The gentleman from the 89th.

REP. DICE: (89th)

Mr. Speaker, I too would like to voice my support of this

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committee's report which I happened to be a party of and I think that it encourages in the matters of divorce to be taken care of by the parties if possible outside the court. But if they do get into the court when they are there, the judge has the final determination to decide whether the relationship is broken down so far that it should not and cannot go any further. He then can dissolve the marriage. He doesn't grant it to either party but he dissolves the marriage without endeavoring to place blame anywhere which is one of the things that we've endeavored to do to get this matter out of the public eye in the sense that everyone are bringing their dirty linen there.

It does seem to me however that the court then does not place the blame but dissolves the marriage. I support this. Thank you.

MR. SPEAKER:

Will you remark further. The gentleman from the 135th.

REP. FREEDMAN: (135th)

Mr. Speaker, as one of the original proponents of this bill I too would like to congratulate the members of the committee, Mr. Bingham, Mr. Dice, and Mr. Avcollie. It seems to me that what we've come up with is a fine compromise and as I said when this bill came out originally, this seems to be the lifeblood of this Legislature and what we've done here is come out with a bill that everyone will undoubtedly find a good step in the right direction. I support it. I think it's a good move.

MR. SPEAKER:

Lady from the 98th.

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REP. GRISWOLD: (98th)

hw

Mr. Speaker, I was one of the strong supporters of the equal rights amendment for women and I feel that this new divorce law will help the rights of women in this state. All parties have been heard up to now by our present divorce laws. Obviously in the case of men some ridiculous sums have been ordered by the courts by way of alimony as spite money. Men have therefore been discriminated against in the traditional awarding of custody to the wife without regard to the circumstances.

Women have suffered under the present statutes due to among other things widespread non-compliance in child support and non-compliance in alimony payments. Sixty percent of alimony and support payments are defaulted within the first year. Seventy-nine percent of such payments are not happening at all after ten years.

I support this bill, Mr. Speaker, not only because I think it will make it more equitable for the women of the state but mostly I support it because I think in this bill has been put safeguards for the children of divorced parents.

Mr. Bingham has told us very lucidly that in the case of a no-fault divorce where both parties agree and there is no lawyer involved, the court must appoint a counsel for the children to be sure that their interests are taken care of and that they are not used as bargain points between two parents. The children will also be safeguarded in that the court under this bill may appoint a third party as custodian if the court feels that neither parent is equal and able and the right person to take care of the child-

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ren, the court may appoint a third guardian---third party guardian. The third way the court is protecting children under this bill is that after a decree of dissolution of marriage, either party, either parent may appeal to the court to take over and if forced the decrees which have come down through the courts on the rights of children.

This bill cannot however do everything we'd like to do for children in this state whose parents have to go to face or undergo divorce. But we did, Mr. Speaker, and I want to remind all the members of the House that we did pass a resolution asking for an interim study on the rights of children and this study will be reported back to us. This I feel is a safeguard because we have to face the fact that there will be more divorces in Connecticut under this bill. We don't know that there will be more Connecticut divorces because many people who have wanted divorces in our state have gone out of the state to secure easy divorces. Under this no-fault divorce bill those people will be much more apt to stay in Connecticut for their divorces. It will though probably increase the divorce rate somewhat.

There is nothing, I'm sorry to say Mr. Speaker, that we in this Legislature can do to slow up the divorce rate. It has sadly enough increased from one in four marriages to one in three in recent years. We cannot like King (inaudible) stand here and say, we will try and stop the tide of divorce. The best we can do is try to do our very best for the children who are among -- whose parents are divorced.

I think this bill has tried to do this. I compliment both

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Mr. Bingham on one side of the aisle and Mr. Avcollie on the other side of the aisle, neither of whom, Mr. Speaker, are what we might call patient men. They have been very patient with the desires of the women of this state who have talked through me to both Mr. Bingham and Mr. Avcollie. They have listened. They have tried to incorporate our desires in with regard to the rights of children as the equality of women. I thank them both. I cannot sit down either without thanking many other lawyers of this General Assembly, in this House at least, who have worked on this bill and who have tried to make it equitable because I believe this bill is not going to add business to the lawyers fees. I think over and over again we talked about this bill. I have heard lawyers speaking from their hearts about the inequities of having to wash their dirty linen in public and how unhappy they are when they have to tell clients that either go to Haiti or lie.

There have been many of those lawyers, from their hearts, have worked to make this bill possible so that at least we can be honest in this state. I think it's as good a bill as we can get, Mr. Speaker, and I urge its passage.

MR. SPEAKER:

Gentleman from the 70th.

REP. AVCOLLIE: (70th)

Mr. Speaker, I wasn't going to rise on this because I've had a great deal to say in the past but I didn't want to let the comments go by without indicating that I accept Mrs. Griswold's observation that I at least am not one of the most patient men in

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the House and likewise I'm happy that she's indicated that she realizes that I certainly will hasten to (I'm trying to be careful, Bill) satisfy the desires of our female sex here in the House. I think that's what she said, and if I can be called on to assist in satisfying any further desires, please feel free to let me know.

MR. SPEAKER:

Will you remark further. Lady from the 150th.

REP. OSLER: (150th)

Mr. Speaker, I too would like to lend my support to this bill. I think it's certainly a very large, large step in the right direction. I have not been very familiar with the procedures of divorce up until this time and I hope not to be personally very familiar with it ever but I think that a great many gentlemen in this hall have done a lot of patient listening to a lot of very concerned women and I think all women appreciate that and I think we've got a good law and a fine step forward.

(Tape #13)

MR. SPEAKER:

Will you remark further on acceptance, adoption of House Amendment Schedule "L". If not, all those in favor of adoption indicate by saying AYE. Those opposed.

The amendment is adopted. Chair will rule the amendment technical. Question is now on acceptance and passage of the bill as amended by House Amendment "A", "D", "E", "G", and "L".

Will you remark. The gentleman from the 147th.

REP. BINGHAM: (147th)

Thank you Mr. Speaker. The bill and the amendments have been

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discussed and I urge passage of the bill.

hw

MR. SPEAKER:

Will you remark further. If not, would the Clerk please announce an immediate roll call on the outside speaker. Would all members please take their seats. Non members come to the well. Question is on acceptance and passage of Sub. for H.B. No. 8235 amended by various House Amendments. Machine will be open. Has everyone voted? Machine will be closed and the Clerk please take a tally.

THE ASS'T. CLERK:

Total Number Voting.....	138
Necessary for Passage.....	70
Those voting Yea.....	117
Those voting Nay.....	21
Absent and Not Voting.....	13

MR. SPEAKER:

The Joint Committee's favorable report is accepted and the bill as amended is passed.

Gentleman from the 147th.

REP. BINGHAM: (147th)

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

MR. SPEAKER:

Question is on suspension for transmittal. Is there objection? Without objection, the rules are suspended and the bill is transmitted.

THE CLERK: