

Legislative History for Connecticut Act

HB 5773	PA317	FA scanned	1974
Judiciary p. 221-1 to 221-3; 221-15 to 221-20			
221-36 to 221-37; 221-56 to 221-57;			
221-65; 221-76 to 221-77; 221-96 to			
221-100; 221-106 to 221-107			
Senate	p. 2262-65	LAW/LEGISLATIVE REFERENCE DO NOT REMOVE FROM LIBRARY	
	2270-71		
House	p. 4839-43		
34			

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

Connecticut State Library
Compiled 2015

PA74-317

Joint Standing Committee hearings, Judiciary. 1974., Pt. 1

Proceedings / Connecticut General Assembly, House. 1974v.17:pt.10

Proceedings / Connecticut General Assembly, Senate. 1974 v.17:pt.6

JUDICIARY COMMITTEE

1
LFU

TUESDAY

MARCH 26, 1974

PRESIDING: Representative Bingham, Chairman

SENATORS: Scalo, Fauliso, Guidera

REPRESENTATIVES: Stolberg, Smyth, Healey, Freedman, Burnham, Argazzi, Sullivan, Neiditz, Nevas

REPRESENTATIVE BINGHAM: Good morning. We're going to open the hearing to Legislators. I understand there are some Legislators who wish to speak. The Legislators will come between 10:30 and 11:00 and then the public hearing for the remainder of those people who wish to speak on the Bill will begin at 11:00 for those Bills. Alexander Woods, Aide to Representative Ritter?

MS. WOODS: Members of the Committee, my name is Alexandra Woods and I'm a Legislative Aide to Representative Ritter of the 6th District. I wish to speak on his behalf this morning. I shall address myself first, to Committee Bill 5773 concerning a Public Defender Services Commission. I support those provisions of the Bill which recognize the need for increased number of Public Defenders which would be supplemented by a list of Trial Lawyers to share the burden of the vast caseload each Defender bears at present.

The Bill calls for adequate staffing. I support this measure too. It provides that the Chief Public Defender shall study the Public Defender System in operation and make annual recommendations for reform and the Bill establishes a regulatory commission to oversee the system. However, the Bill has several faults which I believe undermine the solution which this Bill seeks to achieve.

First, in Section 1a, the Bill provides that the Chairman of the Commission shall be appointed by the Governor. I believe that in order to maintain political independence and a spirit of non-partisanship, the Commission should be able to appoint its own Chairman. It is important for the same reasons that the Bill define much more clearly than it does at present, the criteria which the Chief Defender should use in appointing Defenders and Assistant Defenders to County, Circuit and Juvenile Courts. I would suggest that in this Section, the Judiciary Committee adopt a standard of the Public Defender Bill which was proposed by the Connecticut Civil Liberties Union - existing population concentrations, criminal caseloads, Court facilities, detention facilities and legal services available to persons unable to afford adequate representation. Upon determining local and regional needs for Defenders and Assistant Defenders, the Chief Defender should present an explanation for his determination to the Commission and should be bound to appoint attorneys where need has been found. Under the

JUDICIARY COMMITTEE

2
LFU

TUESDAY

MARCH 26, 1974

MS. WOODS: (Cont'd.) present Statute, the Defender is not required to appoint local Defenders, even if there is need for them.

Finally, as vacancies occur, the Chief Public Defender should be bound to appoint replacements within a fixed period of time, unless he can demonstrate to the satisfaction of the Commission, there is no longer need for a Defender in a specific area.

The chief goal of this Bill should be to erase inequities in the quality of defense in the Courts accorded to different people which results from varying abilities to pay. While this Bill increases the accessibility of competent defense to people of low income, it could be improved upon in several areas.

The criterion for eligibility should be changed from indigence to, as the Civil Liberties Union suggests, financial inability to obtain adequate representation without substantial hardship to the person's family. Then, Counsel shall not be denied to any person merely because friends or relatives have resources adequate to retain Counsel or because the person has posted or is capable of posting bond. The present Bill does make allowances for those people who cannot afford to pay for Counsel but are not indigent. However, by not specifically eliminating friends or relatives ability to pay as a criterion and by requiring that a person of low or moderate income pay off the partial or total cost of Counsel over a period of ten years, I think that the Bill continues the process of discrimination on the basis of poverty.

The Bill should entitle a person who can afford Counsel but not staff, to hire staff at the State's cost. The Bill should further define procedure by which a person who has been found ineligible may appeal the decision. His appeal should be judged by a different judge than the person who made the initial ruling. Secondly, the review hearing should be prompt, within two days of the determination. I would also suggest some other changes.

The procedure by which a defendant waives his rights to Counsel must be clearly defined. The Commission should be required to hold regular meetings, at least on a quarterly basis. Necessary facilities for Public Defenders should be further defined by the Bill, also to include Library facilities. At present, the facilities are so inadequate that I believe the Bill should outline at least a minimum amount of office space to which a Public Defender should be entitled.

JUDICIARY COMMITTEE

3
LFU

TUESDAY

MARCH 26, 1974

MS WOODS: (Cont'd.) I would like now to address myself to Committee Bill 5749, concerning reform of the Small Claims Court. Substantial reforms are necessary to transform this Court from a glorified collection agency, which it seems to be now, to a forum where an individual can be assured of a speedy and inexpensive judgement on his claims. The Bill does not seem to address itself to the need for such reform. The Bill is commendable insofar as it allows for night sessions and includes provision for arbitration.

I'd like to interject here that the Bill, as it reads now, allows for arbitration proceedings upon agreement of only one of the parties. I've been assured that this is merely a typographical error but it is important that it be corrected. I pose on the other hand, the new provision which requires that corporations be represented by attorneys. The purpose of the Small Claims Court is to provide an informal arena in which a claimant may press minor claims with a minimum amount of cost and as simply as possible. In cases where the claim never exceeds \$1500.00, there should be no need for anything more than pari-legal advice. I think the Bill should include specific provisions for adding pari-legal advisors to each Small Claims Court.

In order to keep the Court from remaining a collection agency, corporate claimants should be limited in some ways, I believe. For example, no individual should be permitted to make any more than twenty five claims a year. Second, automatic transfer of the case to higher Court upon the request of one of the parties should not be allowed. This tactic is used frequently by the defendant to intimidate a claimant and to make Court action impossible by making it expensive. I would support the suggestion submitted by the Connecticut Citizen Action Group that transfer be possible - transfer to another Court - be possible only in the event of a counter-claim exceeding \$15.00 - \$1500.00, and following a hearing held on a Motion to transfer, held in the presence of the defendant.

The Bill was introduced originally into the Judiciary Committee and contained a provision for appeal from Small Claims Court decision and the right to trial by jury, still at the Small Claims Court leve. Defection has been removed from the Bill before us and should be reinserted if we are to achieve effective reform. Finally, it should be incumbent upon some arm of the State Government to advertise that the Small Claims Court exists and specifically what its functions are, to the general public.

I thank the Members of the Committee and hope they will revise the Bills.

REPRESENTATIVE BINGHAM: Thank you very much. Are there any questions? Any other statements? Any other Legislators? Senator Gunther?

JUDICIARY COMMITTEE

15
LFU

TUESDAY

MARCH 26, 1974

MRS. BURNHAM: (Cont'd.) private practitioners. Committee Bills 5647 and 5656 which would permit optional retirement of Judges from full time service at age sixty two and Committee Bill 5775 which would vest retirement benefits after twelve years of service.

As we have frequently stated, there must be an effective means of disciplining and removing Judges who warrant such action. The present options of failing to reappoint at the end of the term of appointment, of impeachment and of removal by address of each house of the Legislature are cumbersome and pose no threat to justify prompt, corrective action. The present Judicial Review Council is unknown probably to most lawyers and certainly to the patrons of the Judicial System. We need a strong and effective Judicial Qualifications Commission to receive and process complaints involving the Judiciary and with powers to ensure prompt disciplinary action, either by its own action or that of the Supreme Court. Committee Bill 5777 is a step in the right direction and for that reason, we support its principle. However, we strongly urge that you consider the substitution of the more comprehensive provisions of our draft proposal which is modeled after the Commissions so successfully employed in other States.

We support the principle of Committee Bill 5773 in making a real commitment to an effective public defender system which would be adequately staffed on a merit basis and unified to ensure efficiency of operation. The disadvantaged of this State must be given the opportunity to enjoy the concept of equal justice by ensuring competent counsel who have the time to plead their case as individual clients rather than as but a part of an overwhelming caseload that defied individual attention.

In conclusion, there is much of value in the proposals before you from the standpoint of moving toward our common goal of more equal justice for all. There are shortcomings which I have attempted to point out and which will be discussed in greater detail by members of our Attorney Advisory Committee. We strongly urge your favorable consideration and commend you for bringing us so close to the realization of significant judicial modernization and to recognition that the Courts are for all the people of this State and not just for Judges and lawyers. Thank you, Mr. Chairman.

REPRESENTATIVE BINGHAM: Thank you very much. Are there any questions? Mr. William Holston? You're next on the list. Thank you. I'm sorry if I didn't pronounce your name correctly.

MR. HOLSTON: My name is William Holston. I am the Legislative Chairman for the Connecticut Council of Senior Citizens. Our interests in the Bill are the Small Claims Court - many of these people and usually the poor people and the people who have no Court experience whatsoever are being imposed upon. And they need help and many of them cannot get the help from friends or other

JUDICIARY COMMITTEE

16
LFU

TUESDAY

MARCH 26, 1974

MR. HOLSTON: (Cont'd.) people qualified, excepting after hours. Their claims are not large enough to warrant anyone spending that much time away. So we hope that the Bill, 5749, will be approved.

REPRESENTATIVE BINGHAM: Thank you very much, Are there any questions of Mr. Holston? Thank you, Mr. Holston. William Olds.

MR. OLDS: My name is William Olds and I'm Director of the Connecticut Civil Liberties Union. I recognize that the major discussion this morning will focus around the Court Reorganization Plan and I regret that our Board of Directors has not had time to form an opinion on that Bill. I hope that we may be able to do that at some point in the future. But I would like to speak on Committee Bill No. 5773, An Act Creating a Public Defender Services Commission.

The CCLU supports the thrust of this Bill and we think that the Judiciary Committee is to be complimented for its drafting a measure which would substantially improve the quality of the Public Defender services in both the Circuit and the Superior Courts in Connecticut and Representative Freedman and Senator Scalo, in particular, who Chair the sub-committee, should be commended. The call for full time Public Defenders is excellent and the appointment of Defenders by a Commission is also, I think, a step in the right direction. We also endorse the provision in Bill 5773 which would provide for representation in all cases involving offenses punishable by any loss of liberty. Overall, the Bill would help to promote equal protection of the laws.

The present Public Defender system, as I think the Committee recognizes, especially in the Circuit Courts, leaves very much to be desired. We have particularly been critical over the last few years, of the use of too many part time Public Defenders and the lack of adequate numbers of investigators and secretarial services and other facilities. About two years ago, Joseph Harbaugh, who at the time was a Professor at the University of Connecticut School of Law, did a study for us regarding the Public Defender services in the Circuit Court and that study by Professor Harbaugh demonstrated that excessive caseloads, low salaries and poor working conditions placed the Defenders in the position of in effect, being the step-children of our Judicial System. Professor Harbaugh's study also showed that the twelve full time and fourteen part time Defenders handled over 15,000 cases in one year, or an average of about 750 cases per Defender. That's in the Circuit Courts. Mr. Harbaugh pointed out that the standards of the American Bar Association declared that an attorney can effectively represent 125 to 150 felony cases annually or 250 to 300 persons charged with misdemeanors. That study also showed that the salaries of the Defenders was considerably less than those of comparable Prosecutors and that the Defenders had a grossly deficient number of investigators and of secretaries. And the real victim as he showed, is the indigent client who too often, is represented by a de-

224-11

JUDICIARY COMMITTEE

17
LFU

TUESDAY

MARCH 26, 1974

MR. OLDS: (Cont'd.) fender who may not know his name until just a few minutes before the case enters the Courtroom. And Mr. Harbaugh also noted that in too many cases, the part time Defenders could not provide adequate services because their first loyalty was to their private law practice.

As I indicated earlier, we do support the thrust of this Public Defender Bill. There are a few areas, however, where adjustments or changes should be considered. Section 4, Line 140 states that the Commission may appoint a Public Defender for each County or Judicial District. The word may is used there and we would recommend that that word may be changed to read shall. And in Section 4, that's Lines 204 to 207, it calls for a defender to be admitted to the practice of law in Connecticut for at least five years. We would suggest that that five year restriction is too restrictive and we would recommend that that be eliminated from consideration. We think that that section of five years would eliminate many dedicated attorneys and many otherwise qualified attorneys from being considered for those posts.

We would also prefer to have the Bill allow Defenders to become involved at arraignments so that the defenders could immediately move forward and ask for a bail reduction if that were necessary. Thus, the defendant would be able to receive the same kind of representation that a private person receives who can afford a lawyer.

And then two other matters that you might consider. Perhaps the need for an open budget and some form of caseload control, so that no Public Defender is overloaded with clients. And we think that that would insure adequate individual defenses. Thank you.

REPRESENTATIVE BINGHAM: Thank you, Mr. Olds. Are there any questions of Mr. Olds? Mr. Ralph Dixon.

MR. DIXON: Thank you, Mr. Chairman. My name is Ralph Dixon. I practice law in Hartford for a long time, I'm Chairman of the Legal Advisory Committee to the CCJN which has voted to approve the Bill for the consolidation of these two Courts as the first step in the ultimate establishment of a one tier system. I am a Member of the Connecticut State Bar Association and I am in almost complete disagreement with statements made by the President of the organization that I belong to. Last Fall, I was given an opportunity to speak at length to the Legislative Commission which has proposed this Bill. Although I recommended at that time that there be a consolidation of all Courts, and I still believe that's the ultimate objective of all those who want a real Court in Connecticut, I realize that this is a pretty big step

5649

JUDICIARY COMMITTEE

18
LFU

TUESDAY

MARCH 26, 1974

MR. DIXON: (Cont'd.) to accomplish in one lull. And I agree with the Commission that this is a logical first step toward that desirable goal. Now, the Commission has stated in its excellent report, one which I hope each one of you will read; one which I hope the press and certain editors of newspapers will read so that they will realize the wide range of subjects that your Commission considered, before coming out with these proposals. The Commission stated that the consolidation of these two Courts "should be but the first step in the ultimate consolidation of all of the principle trial courts into the Superior Court.

Now gentlemen, the status of the Circuit Court must be raised if we are going to effect any meaningful reform of our Judicial System. This is the Court which handles 300,000 cases a year, many times the number handled by the combined Superior Court and Court of Common Pleas. It's the Court as some earlier speaker said, which projects the image of our Judicial System to the great majority of our citizens. It's the Court which, practically everyone will tell you today, has woefully inadequate facilities. A Court which I think we have allowed to flap in the breeze of expediency, somehow deluding ourselves that the cases in this Court are not important. That it is an inferior Court; that it does not deserve the respect claimed by the higher Courts. We all admit this with pious words but not a blanketly blank thing has been done about it over the last several years when those words have been uttered.

The Commission and I are satisfied and we know, from experience, that its status will not be raised until it is made an integral part of our trial Court structure and that is what this Bill does. It seems to me that it's time in this State for lawyers and Judges to overcome their indifference to what I will refer to as the smaller case. It is this attitude which allows an older trial lawyer and senior Judges to shrug off the Circuit Court by saying this Court handles a different type of business and must be run on a different basis. From the point of view of the parties involved, it can be a father with a family about to be sent to jail; it can be a family with an income of \$10,000.00 fighting about a \$1,000.00 verdict. These so-called small matters assume a tremendous importance and one which should be decided in a dignified judicial atmosphere. It's a concept which seems to have its motivation in the idea that the Courts are designed for the convenience of lawyers and judges. It is my thesis that the persons to be considered in the judicial structure are the public. Perhaps that is why every major judicial reform comes about because it has the support of the public. And this Bill, I believe, has that support.

JUDICIARY COMMITTEE

19
LFU

TUESDAY

MARCH 26, 1974

MR. DIXON: (Cont'd.) You know as well as I, that most of us as lawyers, are as a rule the most vigorous opponents of change and reform. I think this will become all the more apparent to you today when you find out that the State Bar Association is fighting this Bill and in what I can only describe as an emotional reaction against progress. Now, I'd like to spend, if I may, just a minute or two telling you what I think a first rate Judicial System encompasses. One, the presentation of law suits in an attractive well-appointed and adequately staffed Courtroom where there is an appearance of decorum and justice.

Two, Judges are able, because of the surroundings, to act the part. Judges are able, because they have been selected on a merit basis and Judges continue to be able or are removed because their performances tested by a Judicial Review Council which has the power to suspend a Judge or recommend to the Supreme Court, his removal. I urge the passage of your Committee Bill 5777.

A good Judicial System has a single, administrative head with adequate staff. Our Chief Court Administrator, for example, and his staff, responsible only to the Chief Justice, with power to send Judges to those areas where the backlogs exist for as long a time as is necessary. And, in that connection, Mr. Chairman, may I point out that I think your present Bill should be modified so that the Chief Court Administrator would be appointed by our Chief Justice and would be the same gentleman that runs both Courts.

I think of a good Court system as one in which a Judge would be assigned to a Division of that Court which coincides with his wishes, his abilities and his favored specialization. Let's forget about specialized Courts. We have too many of them, operating in splendid isolation from each other and let's have some specialized Judges. We have specialized lawyers in law firms. Why not specialized Judges who in every case, will handle a matter more efficiently and more expeditiously?

I admire a Court system in which the class distinction of multi-level Courts does not exist. It exists in our system. Inferior Courts should go and along with it, the cast system of Judges. It is my own view that with the exception of intoxication cases and most Motor Vehicle cases, there is no case in our Courts which is too small for a first rate Judge to handle. I want a Judicial System with a strong, unified Public Defender System that will guarantee full time, competent Public Defender representation for the poor of the State and, Mr. Chairman, your Bill No. 5773 is a beaut from my point of view and it should be adopted by this Legislature.

JUDICIARY COMMITTEE

20
LFU

TUESDAY

MARCH 26, 1974

MR. DIXON: (Cont'd.) I want a system which is removed as far as possible from political intervention. You accomplish this by putting the new Court under the jurisdiction of the State Court Administrator without an appointment by the Governor, I want a Court system in which appeals are handled adequately and expeditiously. Now this Bill provides for an appeal from the new Court through a division of the Superior Court as it should. As a lawyer, I'm disappointed because it also calls for what in my mind is an obsolete system of making findings in every appeal, to an Appellate Court which is similar, I agree, to that of appeals from the Superior Court to the Supreme Court. I think that every lawyer in the State would welcome a change from that but the present Bill perpetuates it.

I wish the opportunity existed for you to make that change with respect to the appeals to the Superior Court. I am convinced that the adoption of this Bill will get us well along the road to the type of a Judicial system which I have discussed. This Bill requires that criminal jury trials, civil court trials and motions be heard in centrally located Courts, all of which will make trial lawyers more available for trying their cases. All of which will make for a more effective, economical and less painful use of jurors, Judges and Court personnel. The Commission which wrote this Bill recognizes that fewer Judges can run this combined Court. And five Judges of the present Court of Common Pleas, by your Bill, are transferred to the Superior Court.

I say if you pass this Bill and the others that are listed today for discussion, you will have tackled the most pressing problems of our Judicial system. The Circuit Court and its image, an Appellate Division in the Superior Court and a strong Public Defender system and a Judicial Review Board.

And, in conclusion, pass this Bill and these other Bills and you set the stage for a one tier trial court, hopefully, in the very near future. And let me just tell you what my concept of a single trial court is. It's very simple. It's practical. Our present Courts are lifted and incorporated into one trial Court, with a central administration, a court administrator who draws wisely on his reserves; and they would be great, with a civil division, a criminal division and a family division where Judges are specialists and become specialists in areas they enjoy, with small claims and traffic divisions operated by Magistrates or Para-Judicial personnel so that the time of Judges might be preserved, with overlapping jurisdictions of Courts eliminated and with the opportunity to improve greatly, the image of our Judicial system. Thank you, Mr. Chairman.

REPRESENTATIVE BINGHAM: Thank you, Mr. Dixon. Are there any questions? I might say that of those people who have contacted the Committee concerning the appointment of the Chief Judge to be appointed by the Chief Court Administrator and the positions of Deputy Court Administrator, we're giving serious consideration to amending the Bill together with your recommendations about findings. We think that the Committee will - if those people who wish to

JUDICIARY COMMITTEE

36
LFU

TUESDAY

MARCH 26, 1974

MR. ANDREWS: (Cont'd.) Bill who have mentioned that the situation is pathetic. They're sloppy and it's inefficient. However, they don't support it. They support another measure, without that measure really dealing with the nuts and bolts that really make a distinction between the two positions.

The other point I wanted to bring up that we are supportive of, is the concept that would deal with an improved system relating to Public Defenders. Again, we interact and I don't have the specific Bill number before me, but I understand this is one of yours. We interact with a number of individuals who feel that they do not participate, at this point, fully with many of the Public Defenders assigned to them because they feel that's just an exercise of the system to assign somebody who does not really care about their case that has to go through certain kinds of motions and, as a result, many of them claim that they have either been attempted or talked out of appeals as a result of the involvement and time it would take for that person. 5773

I think what happens here is that the nature of the system related to Public Defender breeds insensitivity as it relates to those individuals who they represent. And, needless to say, those individuals that we relate to mostly and as the result of our work, are those individuals who by and large, end up being the less affluent individual who has to - is subject to a Public Defender - that insensitivity I'm speaking of. I am not here to condemn all Public Defenders. I'm saying I'm condemning the system in which they have to operate under. I think that there are no incentives available for the Public Defender perhaps to do the things that he should do to work in the best interest of his client. But I can name or I could bring before you at least twenty five cases we've had over the last year or so that relates to cases handled by Public Defenders and it is extremely difficult to go to any attorney we relate to or anyone else and ask them to take that case, after it's been handled by another attorney, Public Defender or otherwise.

And although privately they might say he was sloppy, the guy should have had an appeal and this error was made and so forth, many will not take that. So our concern is not trying to slap the hand regarding some work that a Public Defender has done but to improve upon the system in terms of how they are either paid, selected, monitored, the incentive that is provided to them and just an overall system change to improve again, the quality of those that have to be subjected to that concept of Public Defenders.

Now, I think too that some people - we have fell on deaf ears for some time and if you talk about those individuals who have suffered the most as a result of inadequate Public Defender systems, you're talking about the poor

JUDICIARY COMMITTEE

37
LFU

TUESDAY

MARCH 26, 1974

MR. ANDREWS: (Cont'd.) individual and very often the minority individual. For a lot of reasons, people do not feel that this is a great reason to seek change. But I also say to you that if you look at the situation, it will affect anybody who's subjected to it, regardless of race. So anybody who has to put before a person who has a limited amount of money and a limited amount of time and concern to deal with the case. So we are supportive of almost any effort and the efforts that we've seen presented before us today appears to be the kind of efforts that would lend to an improved system for Public Defender selection and working with them. Thank you.

SENATOR GUIDERA: Thank you, Mr. Andrews. Is there any question? Thank you. Mrs. Grinberg? Would the record reflect that we've received a communication from Mr. M. Donald Cardwell? We'll enter this into the record. Mrs. Grinberg? Miss Hennessey?

MS. HENNESSEY: Mr. Chairman, Members of the Committee, my name is Pat Hennessey and I'm here today representing the Connecticut Citizen Action Group. My testimony concerns Committee Bill 5749, An Act Concerning The Reform of Small Claims Court.

I will only present a summary of our more extensive written testimony which is being prepared for the Committee. Although CCAG has substantial questions about suggestions for additions to this Bill, we'd like to commend the Committee for its effort to revitalize Connecticut's Small Claims Courts. We regard Committee Bill 5749 as a pro-consumer Bill. We believe that the provision requiring the appearance in Court of claimants who wish to make a Motion for Default because the Defendant has failed to appear, offers much needed protection for consumer defendants. Section 2a providing for evening Small Claims Court sessions upon request, is a major step forward in making Connecticut Small Claims Courts equally available to all citizens.

CCAG also strongly favors the increase of the jurisdictional limit in Small Claims Court to the proposed \$1,000.00. One of the most important and sensible provisions in this Bill is that providing for the opportunity of arbitration in Small Claims Courts. Many small claims are disagreements as the result of misunderstanding. Such problems are particularly suited to the arbitrator's methods. It is senseless to expend the efforts of over-worked Judges and to clog Court channels with situations that can be best settled by disputing parties sitting down with an impartial third party and settling matters according to the less formal principles of arbitration.

CCAG urges the Committee to retain this very important Section of the Bill. I would like to bring to the Committee's attention, what I believe is a

JUDICIARY COMMITTEE

56
LFU

TUESDAY

MARCH 26, 1974

MR. COLEMAN: (Cont'd.) to get the volume, you know, 21 through 35 of the Connecticut General Statutes.

SENATOR FAULISO: (inaudible)

MR. COLEMAN: I'm glad to hear that, Senator, but it did not happen the day we were in Court or the week we were in Court.

REPRESENTATIVE BINGHAM: Jeanne Clepper?

MS. CLEPPER: My name is Jeanne Clepper. I am a citizen, living in Bloomfield, Connecticut and a member of the Court Monitoring Group of the Quakers. We have had the privilege of attending many of the meetings of the Legislative Commission for Reforming the Courts and we have also observed frequently in the Circuit Court for hours at a time. I'd like to speak on Act 5773, Concerning a Commission for Public Defender Services.

Our group is basically happy to see this law proposed and we feel that it should improve the services given. We have, I think, given to your Commission, an Act Concerning Vouchers for Public Defender type services which we feel would be ideal and which has been used in Ontario, Canada and has worked out well. However, we feel that the present proposal is very sound and would improve the work of the Public Defenders. We would be happy to see a Commission separating the authority over the Public Defenders somewhat from the Court, so that they could operate freely in the interests of the defendant.

We would like to suggest that the Chair person be appointed by the Commission from among its members instead of being appointed as such by the Governor. We would like to point out that in the Bill that was proposed by the Civil Liberties Union earlier, it was suggested that it be possible for applications for Public Defender to be filed by the defendants before they come into the Court. That it be possible when a person is arrested and in custody, that he have an opportunity, at that point, before coming into the Court, to have a Public Defender determine his eligibility for these services. In observing the Courts, we have seen many defendants coming in from lockup who have had no opportunity really, to get any type of legal help and as it is set up now in the Circuit Court, not only does that happen, but they have to, on their first hearings, simply be given the privilege of determining their eligibility for a Public Defender, and then have to wait for a postponed hearing before they can actually go ahead with justice in their case.

We feel that if this were changed, improved, that it would remove some of the burden of the Court, of hearing the same defendant's situation a second time. And going through all this routine with many of the people coming into the Court determining that they need legal help and then having to postpone and have them come back perhaps a week later. We feel it's really significant

JUDICIARY COMMITTEE

57
LFU

TUESDAY

MARCH 26, 1974

MS. CLEPPER: (Cont'd.) to the defendant as many of these people are on very marginal incomes and if this results in their having to spend an extra week in jail and there are very few released on their own recognizance, this can be quite significant in terms of employment, in terms of family budget. They may even lose a job. We do feel that this should improve efficiency generally. We're glad to see that there is a plan for organizing the Public Defenders and for training them. And we are glad to see that the Public Defenders are given responsibility for determining the eligibility of the defendant for this service, so that it doesn't have to take up the time of the Judge. We are also glad to see that they are recommending, apparently, that there be sufficient Public Defenders to handle the business without such a brusque activity that there is no real justice; there is, we note, a provision providing extra Public Defenders when specially needed, or for using a trial list when additional Defenders are listed. And in this connection, we would like to say that we feel there should not be any part time Public Defenders. We are happy that in the main, it is proposed they be full time but we do question having even any part time Public Defenders who are going to have conflict of interest of trying to handle private clients as well as public cases.

And we are glad to see that the budget would be the responsibility of this Commission. We feel that it is important that sufficient funds be allowed if this is going to be a really helpful measure. I would like to say also, that we do feel that the Court reorganization proposed here has been seriously considered by people with legal and judicial experience and we think any plan to drop that proposal would be regrettable.

REPRESENTATIVE BINGHAM: Thank you very much. Are there any questions? Fred Danforth of New Haven.

MR. DANFORTH: Thank you very much, Representative Bingham and other Members of the Committee. As a member of the Bar of New Haven, I certainly have no objection to the merger of Connecticut Courts and certainly have no objection to Court reform and I agree that reform is needed, particularly in the Circuit Court. I think there has been a lot of agreement here this morning. The question seems to be how. I'm one of seventy Legal Services Attorneys in the State and we represent upwards of 25,000 clients, most of the work, as you would expect, is in the Circuit Court. For these clients, it's the most important Court in the world and I think if they could be here today, they'd have a lot to say about how reform is brought. I can't speak for them. I can't speak for other Legal Services Attorneys. I speak here for myself.

5649

Most persons do not chose to go to Court to settle their grievances. The proceedings are expensive in both money and time. They're not terribly understandable to most laymen. For most people, Courts serve best a hassle and for

JUDICIARY COMMITTEE

65
LFU

TUESDAY

MARCH 26, 1974

MS. AMBLER: Thank you, Mr. Chairman. My name is Mary Ambler, from Newington and I'm speaking for the Connecticut Council of Churches and as a Member of the Citizens for Judicial Modernization. The General Assembly is to be congratulated for its commitment, not only to study the Court system as it exists today, but also to draft legislation for its improvement.

A Court survey has been made through the efforts of several hundred citizens, students in colleges, law school and social work, lawyers, housewives, retired persons, clergy and persons who took time off from jobs in business and industry to assist in what to them, was a meaningful contribution towards Court reform.

The Legislation has drafted in Committee Bill 5649, calling for the merger of the Circuit Court jurisdiction with that of the Court of Common Pleas is certainly a step in upgrading the climate of our so-called lower or inferior Court, a move toward raising the quality of justice much needed in the Courts as they are today. Clergy supporting their parishioners as they face the Court summons are appalled at the conditions in our crowded Circuit Courts. Much can be done to correct these conditions through a wiser use of existing facilities and personnel.

The drafted Legislation is open to possible needed changes and amendments, but we would support the concepts contained in Committee Bill 5649 and urge its passage. Thank you.

REPRESENTATIVE BINGHAM: Thank you. Are there any questions? Valisha Genovese. Correct me if I didn't pronounce that correctly.

MS. GENOVESE: I believe my cohort, Jeanne Clepper, covered all the ground except one area where we would like to make a suggestion. And that is in the composition of - this is on Bill 5773 - the Public Defender Bill. 5773? We are a little bit concerned about the composition of the Commission. We notice that this differed from CCLU's proposition. We feel that maybe some citizen input could go into that Commission and we would like to suggest - we haven't consulted with CCLU on this, but we'd like to see a citizen's group who represent the civil rights of the citizens and not just the convenience of the - or the you know, the ability or what the Court wants to deal with, the Judicial Department. Why not have a member from CCLU be a member of the Commission? We would feel a little more comfortable about the quality and the rights of citizens getting equal attention with the management and organization of the criminal justice system. We realize that's the important part of the criminal justice system - is the management and organization. We see a lot wanting in that direction from our observations. Because we don't want to denigrate that consideration 'cause we've looked forward to some improvement in that area - very critical area. But if you could possibly consider putting a representative of a citizen's group that represents rights.

JUDICIARY COMMITTEE

76
LFU

TUESDAY

MARCH 26, 1974

MR. LYNCH: (Cont'd.) Down through the years, many changes have been made in the Court rules, all in the interest of expedition of Court business and a simplification of Court procedures. Since I came to the Bar in 1921, there have been several revisions of court rules; one in 1922, another in 1934, another in the 1950's and a general and complete overhaul in 1963 while I was Chief Justice. On that Commission, we had some of our ablest trial Judges serve, notably, the Honorable Richard Phillips, late of Farmington. My feeling is we should not try to imitate other States who have problems much different from ours. We should cling to what we now have that we find workable and good and constantly strive to improve it.

Again, I repeat that I am opposed to House Bill No. 5649 because it would in my humble judgment, attempt a revolution of the entire Judicial system of the State which would result in a crisis from which it would take us years to recover. I regret that a serious injury which has confined me to my home, makes it impossible for me to appear personally. I deeply appreciate your willingness to receive this statement of my views.

REPRESENTATIVE BINGHAM: Thank you very much. Mrs. Marlene Isler?

MS. ISLER: I'm not sure why I'm here now. Since everything I could say has been said at least three times by several other people. My name is Marlene Isler. I'm a housewife from West Hartford and I participated in the survey in October with the CCJM. I was coordinator for Courthouse, for Circuit Court 14 which means that I spent most of my waking hours for five full days in that Courthouse. And I've also spent some time observing in the Superior Court. I have to say that the contrast is kind of startling. I'd have to characterize Superior Court as a Country Club atmosphere where there is at least a semblance of dignity and the legal process demands some respect. In Circuit Court, all I can see is a herd being moved through a room and, although I have a great deal of respect for the Judges and the personnel in the Courthouse, I can understand why they might get a little dull-eyed after seeing three hundred and fifty cases dailey, brought before them. I hope there is something that can be done about that.

The two things I noticed while I was in the Courthouse that I'd like to speak about today have to do with, first of all, the Public Defender Bill. One of the things that is quite apparent is that the Public Defenders are assigned during Court time. It takes up the Judge's time and it takes up Courtroom time. I don't understand why Public Defenders cannot be assigned before Court convenes. These people know they need one. It can be explained to them before Court opens or when they're arrested. That's when you need an

5773

231-77

JUDICIARY COMMITTEE

77
LFU

MARCH 26, 1974

TUESDAY

MS. ISLER: (Cont'd.) attorney; not after you're in front of a Judge. After the defendant has a Public Defender, they walk over to the side of the room and confer for two or three minutes in full view of fifty to a hundred people. I don't consider that a suitable atmosphere for conferring with my attorney. I don't see why someone with a Public Defender has to have that kind of situation.

I would also like to have the Public Defender's job be a full time job because if a case is continued and you have a Public Defender, it's quite possible that the next time your case is called, you'll have another Public Defender, since your original Public Defender is probably not going to be there. I don't think that's justice. And I think it's a waste of my taxpayer's money because you just can't have it work that way.

The other thing I'd like to talk about is jury panels. Jury panels convened and the Judge spoke to them and then they went back to their waiting room and they sat and they waited. Six of those jurors were used in the course of a week and the rest of them had to sit in a dingy room with nothing to do. Now, I don't know if they weren't told what would be happening to them but no one had anything to read. There was nothing in the room. As I understand it, the same situation existed with the common jury panel used by the Common Pleas Court and the Superior Court.

Now, if this situation was duplicated in Hartford, I'm sure it's duplicated in other places. We pay jurors on a daily basis and that's my taxpayer's money again. Also, if you're doing jury duty and you go down and don't try to weasel out of it, you should feel that you're doing something worthwhile, not that you're sitting there totally bored. I have better things to do than sitting there for four or five days and I'm sure everyone else does. If I'm called to jury duty, I want more chance to serve on a jury. I want to feel that I'm contributing and you're not going to get people that you consider your peers on a jury panel unless they can feel that they're doing something worthwhile. I advocate a common jury panel for a merged trial Court for that reason because I think it makes more efficient use of a jury panel. That's all I have to say.

REPRESENTATIVE BINGHAM: Thank you very much. Are there any questions? Mr. Melvin Katz.

MR. KATZ: Mr. Chairman, Members of the Committee, or hearty survivors thereof, my name is Melvin Katz. I'm an attorney here in Hartford. I am a member of the

JUDICIARY COMMITTEE

96
LFU

TUESDAY

MARCH 26, 1974

MR. COSTAS: (Cont'd.) Administrator should be eliminated and that it's time that we recognize that the Executive Secretary of the Judicial Department actually functions as the Deputy Chief Court Administrator and that the staff of that office is, in fact, part of the staff of the Court Administrator and that we tie sections 51-8, etc., into the concept of the Chief Court Administrator and made it part of a beefed-up Court Administration operation. I would suggest that you would specifically define several things.

One, that the Assistant Chief Court Administrator, under the Deputy Chief Court Administrator, and that an Assistant Court Administrators who would have responsibility for geographical areas of the State. I don't know if you gentlemen are aware of the salary levels that we pay for our Court Administration personnel, but they're deplorable and frankly, the salary levels right now, make it almost impossible to assume we could find people who would function as Deputy or Assistant Court Administrators of the caliber that we wanted. I think that you might consider amending the Act so as to put them on a pay scale comparable to comparable positions in Executive Departments so that as pay raises were granted to other employees, their salary would automatically go up. I would also suggest that you beef up the responsibilities of the Court Administrator from the standpoint of what he should be doing to search and to improve the system.

I have some proposed amendments which I'll present to you, Mr. Chairman. Thank you.

REPRESENTATIVE BINGHAM: Thank you, Mr. Costas. Frank J. White, Jr.? Anthony DeMaio, for the second time.

MR. DE MAIO: I want to apologize. I didn't realize, because of my late arrival, that one could speak on all Bills at one time. I thought you were restricting the discussion to the one Bill. I would just like to speak briefly on the Public Defender Bill, No. 5773, which unfortunately, I only received last evening and had to read rather hastily and, since you've been getting quite a bit of abuse up 'til now today, I wonder if I can depart from my traditional role for a moment and commend the Committee for this Bill because I think a careful reading of it does indicate that it apparently represents a sincere effort to put Public Defenders on a par with their adversaries on the other side of the fence. And I just have a couple of comments I would like to make with the hope that you might consider some appropriate modification. They aren't substantial. They don't detract from the intent or from the tape of organization or anything of the sort. But, under - let's see - on page seven, you have a requirement for five years of service for certain Public Defenders and three years for others. The five years would

-43-

JS

JUDICIARY COMMITTEE

MARCH 7, 1974

some areas, shall we say of non-agreement have arisen to interpretations. The bill which is before the committee has been drafted by the uniform commissioner's on state laws and is an attempt in response to many of the state's varied interpretations to coordinate, clarify, renew, and update the commercial code.

The revisions come recommended by permanent editorial board of the uniform commercial code and by the national conference of commissioners on uniform state laws.

There are at present 7 jurisdictions in the U.S. have adopted the provisions as outlined in bill 5515. It is the position of the bar association, after careful analysis and review, a copy of which review I will furnish to the committee for your file for study later, that the bill does not change substance of law at all; it helps to clarify and update various provisions that have have been subject to controversy in the past.

I think if the committee reviews the analysis prepared by the state bar association which is a section by section analysis, that it too will get the flavor that the amendments are needed and are of benefit to Connecticut.

JAMES REARDON: Chief of Police, Manchester, Conn., here representing the Conn. Chief's of Police Association as President; to be recorded in favor of committee bill 5216.

Without going into comments I endorse very strongly with the comments of Rollie Sterratt and Comm. Fussinich. We have met in executive session and are fully in supporting and hope this committee will adopt this bill favorably.

SEN. GUIDRA: Do you see anything in the act, as it stands now, that you would object to or wish for us to change at all?

JAMES REARDON: No, I do not, and don't want to get into the other nitty gritty of this; I've been in the police business for 38 yrs. and I think this is one of the greatest forward steps to eliminate the common drunk, the domestic problems.

I spent 23½ years with the State Police Department, Manchester's Chief, and we have many problems and would like to see this act to relieve the burdens. We have no facilities and not in the business of treatment.

ATTORNEY JOSEPH KEEFE: Mr. Chairman, members of the committee, I am a practicing attorney and, in Torrington, Connecticut, and

-44-

JS

JUDICIARY COMMITTEE

MARCH 7, 1974

practice in Litchfield County and also public defender in superior court system.

Basically, the problems with existing court house, bill 5540, when they have jurors there, parties there and witnesses and lawyers, there just isn't enough physical room.

Secondly, if you are going to your witnesses because of civil or criminal case or because criminal case where you don't want some to hear testimony of others, we don't have rooms in which to put them and it is a nightmare.

Criminal business is up in Litchfield County, we've had four murder cases this year, not doing civil business, we don't have facilities and a large criminal docket, it poses a problem, I'll give you an example, last summer I was appointed where there were three co-defendants, two were hostile to my client that had to witness and the only place that I could interview them was out in the park.

I had to walk them out and sit them on a park bench to interview them there.

Friday, which is ladies day in Litchfield County, there are just people milling around and you are trying to talk to your client and her husband or some of her witnesses are back and forth, you are in a corner some place, standing on a stairway and this is disconcerting both to the party and the lawyers.

The Riley case which is on trial which is a murder case has had a lot of publicity and the date it started Judge Pizielli issued his order, subject to newspaper comment was that it became a carnival atmosphere.

The judge couldn't get from his chambers to the court house without stumbling over reporters, he doesn't have a direct entrance, goes through an office, etc., and this is one of the reasons because of lack of facilities for people that those orders had to be issued. Everybody was everywhere looking at files, talking, etc.

Secondly, if you have a woman, a defendant, and you don't have adequate facilities, they stick her in the lounge and that eliminates the only conference room and telephone that lawyers have.

The last thing, the Craft case which I participated in where

-45-

JS

JUDICIARY COMMITTEE

MARCH 7, 1974

we subpoenaed 26 jury committee members from each town because we challenged the array and really didn't have any place to put them since they were segregated and testified one at a time; we kept cramming all of these people into a little jury room, where they sat for two days, which was unfair to them and which, of course, they objected to and I certainly can't blame them.

As Mr. Lavieri mentioned, when both courts are in session there just aren't facilities, we hold our prisoners and the only public toilet facility in the superior court house which is on the second floor, someone during the course of the day in January went into one of the darkened corners of the first floor and moved his bowels, which they found at the end of the day and this was type of situation we have and the reason we need funds and do need renovation and would ask for favorable report.

MR. JOHN O'ROURKE: Mr. Chairman, members of the committee, I am here to speak in behalf of bill 5216, my name is John O'Rourke executive director of Alcohol Council of Greater New Haven.

I would not want to repeat all that has gone before; I would want to emphasize just a few points.

When any kind of action like this is initiated it is going to rise expectations on part of many people and if there are not results, I think we are going to end up with great many frustrations and so I too would emphasize the need for adequate funding, this year, and the year subsequent to this bill.

SEN. GUIDERA: That's really an argument to be made before the Appropriations Committee when this committee approves the act as drafted although we will appear and ask the proper funding be made for this piece of legislation.

MR. O'ROURKE: The benefit, as I see it, from the voluntary sector in the New Haven area, and I am sure this will apply to many other sections of the state, is that the people that we have the most difficulty reaching, for, who are sick with the disease of alcoholism, will see a public body stating in effective way, through this bill, that alcoholism is a

JUDICIARY COMMITTEE

100
LFU

TUESDAY

MARCH 26, 1974

MR. BUNDOCK: (Cont'd.) Public Defenders. They're able to have a broad knowledge, a broad range of knowledge, broad range of knowledge of human beings and how they act. But I certainly appreciate the compliment you're paying our office and the recognition given to the Public Defenders for the work they do. Thank you very much, gentlemen.

REPRESENTATIVE BINGHAM: Thanks, Mr. Bundock. Frederick U. Coring? Mrs. Dimitri Odiseos? Joseph M. Delaney?

MR. DELANEY: Mr. Chairman, my name is Joe Delaney and I come from Wallingford and . . . I think - I appear here in opposition to Bill 5649 for the reason that I think it should go the other way around. I think there should be a merger between the Court of Common Pleas and the Superior Court, briefly for these reasons. The Court of Common Pleas handles the same type of business as the Superior Court. If you take a hospital bill or a general Court case - a personal injury action - they have a hospital bill of \$500.00 and it's in the Court of Common Pleas or something in that area and you have a hospital bill of \$2,000.00, it's in the Superior Court. If you have a low back strain in the Court of Common Pleas and in the Superior Court, there's only one other question asked and that is is there any permanency in the case. So, by training and experience the Judges of the Court of Common Pleas are doing the same work that the Judges of the Superior Court.

Many of the Judges of the Superior Court came up from the Court of Common Pleas and know the zoning appeals and cases like that. And you'd use the same facilities, the same jury assemblyroom. I think you need more Judges in the Superior Court. Since the Warren Court came along, now we have three Judges in New Haven County sitting on criminal business. We've had two Judges on the jury side in September. Now we've got three. If one Judge acts like a traffic cop, it keeps the other two Judges busy and that one Chief Judge pretries cases. It's less than we had four or five years ago when we had approximately four or five Judges in the Superior Court trying jury cases. I don't think these Judges are all fungible units. I think that this Circuit Court is a good place to have Judges - Circuit Courts should be like a training ground for Judges before they're elevated.

Directing one remark to what the Chairman commented on - the Family Court - I don't think this is as bad off as our civil jury business in the Superior Court. We have four Referees where contested cases go and we're not that -

REPRESENTATIVE BINGHAM: Why should a divorce get a Referee? Rather - a right angle collision get a jury and a Judge and a divorce gets a Referee.

JUDICIARY COMMITTEE

106

LFU

TUESDAY

MARCH 26, 1974

MR. TYLER: (Cont'd.) it was close to 11:30. Now, a lot of these people who were there, had lost at least a half a day's pay and they hadn't even, you know, come close to anybody having a Court case heard yet. And I would just like to suggest that perhaps if we had people in these Courts who were administrators so that the Judges could be Judges and if we could do some of this process outside of the actual Courtroom, I can't understand why the people who come into that Court, for instance, couldn't go to a separate room whereby the Clerk calls the roll of those who are there and those who are not there and therefore default their cases. And have the Judges sitting there and as a person - as they determine the cases are sent over along with the people to the Court where it's actually being tried. Now, this to me, would mean that you would have a Judge who is sitting on cases at 10:00, instead of a loss of an hour and a half. Now, there may be a legal reason for this that I'm not aware of but I'm just citing this as one example of whereby I would like to suggest that in any kind of organization and reorganization of the Courts, that you be given - that administrators, maybe they don't have to be lawyers. Maybe they just have to be people who are good administrators who are trained as administrators and, therefore, your lawyers can resume being lawyers and the Judges can resume being Judges.

And I'm not sure to what extent this occurs now but I would like to say from what I've seen, it could be improved.

REPRESENTATIVE BINGHAM: Thank you very much. Are there any questions?

MR. TYLER: I just have one quick point. I would just like to say as a consumer, I particularly am not interested in the hierarchy of Courts and things like that. Maybe that's a fine little game that people like to play like in a bureaucracy people like to play who's playing in what musical chair. I would like to suggest that to the outsider who wants the services - be it a Court or be it a State agency which I used to work for - their interest is they want their problems solved and to the extent that your reorganization and your actions address this, I think you would have the gratefulness of all of us as citizens and I thank you for your time. I'm sorry I'm here so late, but I think you can understand why.

REPRESENTATIVE BINGHAM: Thank you very much. That's the end of the speaker's list. If anyone else would like to speak -

MR. GIDDEN: Excuse me one second. My name was mentioned before. I'm Attorney Arthur Gidden. I'm the Chief Public Defender in Hartford County, the Superior Court and all I want to do is just ask a question. From reading the Bill this morning, it would appear to me that those of us who have gone full

JUDICIARY COMMITTEE

107
LFU

TUESDAY

MARCH 26, 1974

MR. GIDDEN: (Cont'd.) time and have given up our practice - I went full time at the suggestion of some of the Superior Court Judges and also probably because of no-fault. And --

REPRESENTATIVE BINGHAM: Insurance or divorce?

MR. GIDDEN: I beg your pardon.

REPRESENTATIVE BINGHAM: Insurance or divorce?

MR. GIDDEN: Yes, that's true. And I just want some reassurance that those of us who are older and have given up a practice, it would appear to me that if we are - and I've been a Public Defender since 1965, that those of us who are presently in the system and continue in the system, that -

REPRESENTATIVE BINGHAM: The plan is to keep on the present Public Defenders.

MR. GIDDEN: Even after the age of sixty five.

REPRESENTATIVE BINGHAM: We may have to right some language into preserve that right, but that's the plan.

MR. GIDDEN: Well, it would seem from that that it was Section 5 or 6. It would appear that it may be covered. Except that no person who was not on October 1st, 1974, shall continue to serve after the age of Sixty five which seems to me that those who have served as a Public Defender, October 1st, 1974 would continue as such.

REPRESENTATIVE BINGHAM: That's my reading.

MR. GIDDEN: Is that your reading, sir?

REPRESENTATIVE BINGHAM: Yes.

MR. GIDDEN: That's all. Thank you very much.

REPRESENTATIVE BINGHAM: Anyone else wish to be heard? If there is no one else who wishes to be heard, we'll declare the public hearing closed.

Wednesday, May 1, 1974 29

Nonmembers come to the well. Question is on acceptance and passage of S.B. No. 461. Machine will be open. Has everyone voted? Machine will be closed and the clerk please take a tally.

Gentleman from the 104th in the affirmative.

Gentleman from the 148th in the affirmative.

ASS'T. CLERK:

Total Number Voting.....	131
Necessary for Passage.....	66
Those voting Yea.....	131
Those voting Nay.....	0
Absent and Not Voting.....	20

MR. SPEAKER:

The Joint Committee's Favorable Report is accepted and the bill is passed.

THE CLERK:

Page 12, Cal. No. 768, File No. 591, Sub. for H.B. No. 5773,
AN ACT CONCERNING A PUBLIC DEFENDER SERVICES COMMISSION.

Favorable Report of the Committee on Appropriations.

Emergency certification in accordance with 226-228 accompanies the bill.

MR. SPEAKER:

Gentleman from the 135th.

REP. FREEDMAN: (135th)

Mr. Speaker, I move acceptance and passage.

MR. SPEAKER:

Will you remark on acceptance and passage.

REP. FREEDMAN: (135th)

Mr. Speaker, this is another in a series of Judiciary Committee bills reaching out towards judicial modernization of our

Wednesday, May 1, 1974

30

criminal justice system. Last year we combined prosecutorial services into the division of criminal justice and this is the other side of the coin.

hw

For years public defenders have been overworked, understaffed, ill equipped, and underpaid, and indeed our investigations determine that last year in Bridgeport Circuit Court there were some four thousand cases processed by a very small staff.

This is landmark legislation for the defense of the indigent. For years experts have claimed that public defenders should not appear before the very judges who appoint them, and indeed it is a hard thing to convince a client that you are a totally free agent, for justice undoubtedly like Caesar's wife has to be above reproach. Indeed the American Bar Association's minimum standards indicated that this was something which all states should have.

This bill provides for a commission, the commissioners to be appointed by three branches of government. It requires at least two non-lawyers participating. The commission is to appoint a chief public defender and a deputy chief public defender who will have the same type of powers that the chief and deputy state's attorneys have and the same salary. They will also appoint all public defenders for the various counties and Superior Court and assistant public defenders as needed and also in the new Court of Common Pleas in the various geographical areas. All appointments will be for four years and the amount of members appointed will of course depend upon the amount of criminal business and the appropriations granted by this Legislature.

Salaries for all public defenders will also be the same as

Wednesday, May 1, 1974

31

competent--comparable prosecutors, and of course it recognizes that public defenders indeed do just as much work and in many cases more.

hw

No one may be removed by the commission without just cause. One of the most important features, in my opinion, of this bill is the fact that the chief public defender will be able to move public defenders both laterally and vertically which means from county to county or from geographical area to geographical area or up or down as the case may be and the needs of justice bring these needs to his attention. Full-timers are taken care of, those on full-time service will be frozen in. Those who are on part-time service will have one year to decide whether or not they wish to go full-time. There is in extreme circumstances the possibility in certain geographical areas of continuing some but not a great deal of part-time help.

Public defenders will be able to investigate the assets of all individuals, the commission will provide forms, and in cases where people are turned down, they will have a right to appeal to the court.

There is a new concept in this bill of repayment to the public defender commission by anyone who subsequently becomes into funds and is capable of paying for that service and indeed the commission can through the attorney general if the need presents itself and the people refuse to pay when they obviously have money, take legal action to do so.

The chief public defender will be able to supervise the people under him, train them, and in all respects bring public

Wednesday, May 1, 1974

32

defender services up to a high level.

hw

This here is a result of a series of hearings, conferences, and a great deal of research and investigation. With me on this were Senator Scalo and Rep. Bingham, the chairman of Judiciary, and I would present this bill to this chamber with a great deal of pride. I don't think anything that I have done in the two years I've been here has made me as pleased as this one. Having served in the old horse and buggy days, I know how far this bill takes us.

I urge its adoption.

MR. SPEAKER:

Will you remark further on acceptance and passage.

Gentleman from the 18th.

REP. NEIDITZ: (18th)

Mr. Speaker, I think that this bill which has been a labor of love and a lot of work by Rep. Freedman, Rep. Bingham, and other members of the Judiciary Committee, I think is one of the great bills to come before this House, become before this session of the Legislature.

I think for too long, as Rep. Freedman has said, the public defender system has been an orphan in our criminal justice system.

tape #5 I think that this bill will be copied and modeled in many other states in our country, and I hope it passes.

MR. SPEAKER:

Will you remark further on acceptance and passage. If not, will the clerk announce an immediate roll call. Question is on acceptance and passage of Sub. for H.B. No. 5773. Machine will

Wednesday, May 1, 1974

33

be open. Has everyone voted? Machine will be closed and the clerk please take a tally.

hw

Gentleman from the 32nd in the affirmative.

ASS'T. CLERK:

Total Number Voting.....	130
Necessary for Passage.....	66
Those voting Yea.....	130
Those voting Nay.....	0
Absent and Not Voting.....	21

MR. SPEAKER:

The Joint Committee's Favorable Report is accepted and the bill is passed.

THE CLERK:

Page 14 of your Calendar, Cal. No. 781, File No. 585, Sub. S.B. No. 471, AN ACT VALIDATING A LATE APPLICATION FOR A SCHOOL CONSTRUCTION GRANT BY THE BROOKLYN BOARD OF EDUCATION.

Favorable Report of the Committee on Education. Emergency Certification in accordance with 226-228 of the General Statutes accompanies the bill.

MR. SPEAKER:

Gentleman from the 38th.

REP. ROSE: (38th)

Mr. Speaker, I move acceptance and passage of the bill.

MR. SPEAKER:

Will you remark on acceptance and passage.

REP. ROSE: (38th)

Yes, Mr. Speaker. This is a minor validating act which has come before us from the Town of Brooklyn because of the fact that

May 3, 1974

93

C.G.C.

Consent Calendar, if there is no objection, so ordered.

THE CLERK:

Calendar No. 695, File No. 591, Substitute for House Bill
No. 5773. AN ACT CONCERNING A PUBLIC DEFENDER SERVICES COMMISSION.

Favorable report of the Committee on Appropriations.

THE CHAIR:

Senator Scalo

SENATOR SCALO:

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

THE CHAIR:

Will you remark?

SENATOR SCALO:

Yes, Mr. President, I think that this is one of the most important bills that we have passed this session in terms of providing effective services in the criminal sphere for indigent people. This bill sets up and creates a new office, or a new commission for public defenders. As you know, presently, public defenders are appointed by the judges, they also appoint the prosecutors. There has been criticism not of the manifestation of the work of the public defenders but merely of the appointing process. That it creates a situation where there may in fact be a question of impropriety. This removes that problem forever. It creates a separate independent commission which will have the authority to oversee the public defender services in the state of Connecticut. The state has a responsibility to provide adequate and effective legal counsel for those people who are unable to

May 3, 1974

94

C.G.C.

provide economically for counsel themselves. What this commission does is create a seven member commission, it is not a paid commission but receives reimbursement for expenses and this commission would oversee the public defender services. They would appoint a chief public defender and a deputy chief public defender who would then supervise the public defender services in the Superior Court and in the new Court of Common Pleas.

It also does something else which I think is most important, it puts the public defender services on a parity with those of the prosecution services in terms of staffing and in terms of salaries. What we have now there has been a question raised by some members that constitutionally we have created an imbalance in our system or an inequity. In that the state will provide for prosecutors and on the same token they will provide for public defenders yet they will pay less money for public defenders than they will for prosecutors in the same court. It would appear that the state would then be moving toward a system or has been in the past of favoring prosecution over defense. I think that what we have by creating parity between the two offices is remove that imbalance forever so that indigents, people who do come and seek the services of a public defender can be guaranteed equal, effective assistance of counsel. I think this has tremendous impact for those people who are fortunate enough not to be able to provide themselves with adequate and effective assistance of counsel. I know the feeling, I served as, in a part time capacity in the Superior Court for Fairfield County, as a public defender and we had at that time we were trying murder cases, cases of rape and

May 3, 1974

95

assault and what have you and we found that our ability to compete with the prosecution was very, very difficult. We did not have staff, we did not have people to investigate and prepare as the prosecution did, and it was some semblance of an inadequacy and I think that this bill will go a long way to removing all of those impediments towards the standard that we are all seeking which is equal, effective, and adequate assistance of counsel for indigent people. I think this is an excellent bill Mr. President, and if there is no objection, I would move that it be placed on the Consent Calendar.

SENATOR ROME:

Mr. President, I will have to objection later, but I believe I'd indicated that we would break at 12:15 to 2:00 for luncheon I would hope that there would be some more comment on this very important bill, I hope it also transfers to the Consent Calendar, I would move a recess however,

THE CHAIR:

You don't want to finish the bill now?

SENATOR ROME:

No, I think Senator Fauliso wishes to speak at length on the bill.

SENATOR FAULISO:

Mr. President, I think that the distinguished majority leader is mistaken. I'm going to be brief but I hope logical. Senator Scalo apparently has given an excellent dissertation on this particular subject matter. For a long time the State of Connecticut has been talking about our public defender system that would be

May 3, 1974

96

on parity with that of the state attorney's office. For a long time also the people of this state, particularly those who are less fortunate, unable to pay for legal services, perhaps have been short changed, not because of the quality of the public defenders but truly we have people in the system that are dedicated and devoted, but because of inadequacy, because of lack of staff, because of lack of investigators; now I believe under this bill we can truly achieve the goals that we've been longing for--namely a system which will bring about what we hope a kind of equal justice we talk about, the kind of equal justice that the constitution provides. I think through this particular bill we are articulating the Constitution and I hope it will bring about also the equal justice that we are concerned with.

THE CHAIR:

The motion is to the Consent Calendar, Senator Alfano would you like to break now.

SENATOR ALFANO:

Yes, this is an unstarred bill and I'd prefer not to take it up to after recess.

THE CHAIR:

Fine, very well, the motion is to recess, Senator Rome if you could move the items which have been taken so far, we will break on this bill in mid-stream so to speak.

SENATOR ROME:

Mr. President, I move adoption of all the matters that had earlier been placed on the Consent Calendar.

SENATOR ALFANO:

C.G.C.

I have no objection to this bill going to the Consent Calendar, the only remark I do want to make on the bill is this: We are expending considerable amount of money to protect the criminals of the State of Connecticut and the Public Defender Bill does that. My only objection to the bill is the fact that I feel that we should also take into consideration the victims of the various crimes. I've introduced legislation over the past six years attempting to try and get through this General Assembly compensation for victims of crimes. We do everything to protect the criminal, but what do we do for the poor victim. I had anticipated attaching an amendment to this particular bill in order to accomplish this objective. However, I do not want to defeat the purpose of the bill, I do think it is a good bill. I just hope that sometime this General Assembly will take some action in passing legislation which will create a claims commission that will give compensation to victims of crimes.

Other states have attempted this, it is being widely used in England and certainly the result has been beneficial to the poor innocent people who suffer as a result of criminal acts of others.

THE CHAIR:

Senator Fauliso.

SENATOR FAULISO:

Less there be any misunderstanding, I think that Senator Alfano perhaps never meant it in the manner it was said, certainly the public defender bill is not meant to protect criminals, it is to protect those who are accused of crime and are presumed to be innocent, and I hope that was the connotation. Certainly, we're not

May 3, 1974

102

C.G.C.

going to be passing here bills designed to protect people who are criminals in fact.

THE CHAIR:

Senator Rome.

SENATOR ROME:

I hope that that could be transferred now to the Consent Calendar so that we can take on some very important other matters Mr. President.

THE CHAIR:

Will you remark further?

SENATOR SCALO:

I just think that this is an important matter and I want to associate myself with the remarks of Senator Fauliso because I think what we are doing is protecting the system and not the individuals.

THE CHAIR:

I'd like the journal to please reprint the comments of Senator Scalo in consecutive order starting at this time so that the Journal will have a continuous record of the comments on this bill.

SENATOR ROME:

Thank you and I associate myself with his remarks which I thought were self-explanatory. Could I just indicate the order if I could have everyone.

THE CHAIR:

If you'll excuse me for a minute, motion is to the Consent Calendar, is there any objection, Hearing none, so ordered.