

SB 1399

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1981

REP. TULISANO: Please identify yourself before you say anything. Okay so for the record --

STEPHEN TATE: Representative Tulisano, members of the commission I'm Stephen Tate from Westport, I guess I'm the Legislative Chairman of the State and Probation Section of the Bar which is sponsoring this Bill No. 1399 and once again this year, we are presenting all of the legislation that we're proposing in one omnibus bill so it's packaged together for you. Most of it is of highly technical nature.

: Please don't use the word, last year when you did it we found out something about three months later that we did consider technical so is there anything in here like changing the age of majority?

MR. TATE: Yes, we'll get to that.

: I want to remind you that last year's bill still smarts.

MR. TATE: We have reacted to that, sir, and I think that you will find that there's nothing here that is going to create that effect. Briefly, the bill breaks down into three or four different sections or topics. The first section deals with 4569-0 which has to do with the bill which keeps a power of attorney, the durable power of attorney in force during a period of disability and we are simply modifying this so that the estate if there is a conservator appointed, if that conservator is only a conservator of the person the durable power of attorney will still remain in force. Now our experience has been that the durable power has been very very helpful, both to lawyers and to the public, more importantly to the public. We just heard in Westport yesterday the Judge of Probate talking to the Bar Association and pointing out how much of a shock it is to a disabled person to be served by a sheriff in a conservatorship situation. It always has been in my experience and this durable power has made it possible for us to avoid those conservatorship situations in many instances, but it is important that a conservator displace the holder of a durable power of attorney if that is the -- if he is not doing his job or if he is doing something illegal but that should be the conservator of the estate of the person so that's the one change that is

MR. TATE: (continued)

Tape 3 being offered here (gap in tape) two year expiration on the power of attorney, it's just unworkable and we do oppose that bill, didn't bring it up simply because we didn't want to burden your time with something that was not, we hope this will not be passed.

The next sections of our bill have to do with the almost annual fix-up of the Connecticut Fiduciary Powers Act. These are -- this is the creation, as you may know, of Attorney Frank Bural, who has done a great deal of work in the tax field and in the probate field and has really done a great job of giving powers through legislation so that fiduciaries can act within those powers and they don't have to be spelled out in a 30 page will. It used to be we had to have all these powers in the will no longer necessary, but each year as tax law, particularly federal tax law changes, we have to change those fiduciary powers somewhat and these sections which I'm not going to go into in detail are for the purpose of bringing the Connecticut Fiduciary Powers Act up to date.

Item six, we're asking be dropped. We understand that the fix-up of what Mr. Tulisano was talking about having to do with the UGMA, Uniform Gifts to Minors Act, there was one section that was omitted, nobody caught it in the changing of the UGMA and that had to do with the distribution of assets to one of the beneficiaries under the Uniform Gift to Minors Act, and that was not brought in line with the general law as it was changed last year, and we ask that that be changed. That was item six of our bill but since a separate bill has been introduced, we understand already acted on favorably, we're not pushing this part of our bill.

The whole remainder of our bill has to do with the new updated disclaimer law that we are presenting to you at this time, and the gentlemen that are here this morning are going to speak to that disclaimer law. As most of you know, the Internal Revenue Code was modified in 1976, greatly updated, a new disclaimer -- a federal disclaimer statute was passed for the first time, 2518, and it is with an eye to getting our law more in line with the federal law and therefore, easier for the layman to understand that we have -- we offer these changes and may I say that our action in offering this is applauded and seconded by Seymour Alpert, Sy Alpert, who is the deputy tax commissioner for the inheritance tax here in the state. I talked with

MR. TATE: (continued)

him yesterday, he had told me early in the year that he favored a bringing of the succession tax into line so that it would -- the tax would be as disclaimed, in other words, if there was a disclaimer from a wife -- by a wife and the property ran to the children, then it would be taxed as if going to the children. Prior to this, that has not been the case and I'll tell you the state of Connecticut has lost a lot of money as a result of that and Seymour Alpert sees a way of bringing more revenue in by doing this and we're for it, why would we be for our clients paying more money. The reason is simple.

This doesn't happen all that often but when it does happen, it's very difficult to explain to a client that disclaimed property is taxed one way for all other purposes and another way for state succession tax purposes. In other words, to have a wife disclaim and not get the property and still pay the tax on it seems unfair, they don't understand it, they want to know why and we think this should be brought into line even if it does create more revenue. So it is not a revenue impact change.

Now to explain the more -- the intricacies of this disclaimer law, Mr. Stivey Bearns will be the next speaker, he is the head of the subcommittee that did all this work on disclaimer.

STUYVESANT BEARNS: It's been about eight years since this disclaimer legislation has been here. Does anybody want a minute or two on what our disclaimer is or do you want me to just launch into the bill?

REP. TULISANO: Why don't you say what disclaimer is.

MR. BEARNS: Okay, a disclaimer is simply an unqualified refusal to accept property that's given to you. The basic law of gifts has a requirement of acceptance and if I give you something, you don't own it unless you accept it. The law has always presumed that you're going to accept it but there was an 1810 case in Connecticut called Treadwell, which in effect recognized the law of disclaimer at common law long before we had any statutes on this. Somebody refused to accept a conveyance of real property and the court said fine, that's your right. The presumption

MR. BEARNS: (continued)

of acceptance disappears in the face of express evidence that I don't want it, take it back. That's what a disclaimer is.

Now they've gotten to be very important now, I think, primarily for tax reasons. What we see happening over and over again is estates over \$175,000 getting subjected to a combined federal and state tax rate which can run around 40¢ on the dollar for everything from there on up. And what repeatedly tends to happen is say you have a husband who dies first, leaves his whole estate outright to his wife, doesn't think he's got that large an estate to worry about, federal-state taxes; when the wife dies, all of a sudden she finds out that given the insurance, the house, which has appreciated, and everything else, she's well up into her federal state tax bracket and she's paying a whopping tax.

Now if the lawyer who settled the husband's estate came to her at that time and said look you've got nine months in which to file a disclaimer and if you do this property will pass down to your children, it will not be subject to this whopping tax when you die and this is happening over and over again and it's a very useful tool and it can save an awful lot of money, but in order for an attorney to be able to step in there and say if you disclaim now this is what will happen to the property, you've got to have a very clear, a very tight disclaimer statute because the first thing that widow is going to ask you is something like this. Are you sure the property is going to go to the kids and not end up in my nephew's hands or something like that. Now the purpose of this bill among other things is to clarify that point just as much as we can, the passing of the disclaimed property, that's one of the major points in here. Yes sir?

REP. TULISANO: It's just fascinating that ten years ago we changed our law of intestancy to do just the opposite, it seems to me, or maybe it was 15 years ago.

MR. BEARNS: Well most (speaker inaudible)

REP. TULISANO: (speaker inaudible)
to the kids rather than to the wife. Now we're going --

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- MR. BEARNS: Yes but what you're talking about there is about I think the limit there in intestancy is \$50,000 or something like that?
- REP. TULISANO: Yeah but if the old law was two-thirds (speaker inaudible)
- MR. BEARNS: Two-thirds of the kids -- two thirds to the kids, one third to the wife, I think what we're talking about is estates of different sizes. You see what I'm driving at?
- REP. TULISANO: Yeah I see what you say but it's amazing that the philosophy has reversed itself in (speaker inaudible) up here nothing changes, you know.
- MR. BEARNS: I agree with what you're saying, but I don't think we're really reversing philosophies, what we're doing is talking about a different size estate, because a disclaimer isn't going to be used when the surviving spouse needs that \$50,000 or \$25,000 or whatever it is to live on, I mean you're just not going to step in there and say give it up and give it to the kids and then be dependent on them.

I think there are four major changes made by this bill which I think you ought to be aware of and I'll try to just summarize them as much as I can and as quickly. My cohorts may think other things that they've worked on in particular have been major changes, so I'll leave that open to them. To me the most important change of this bill is that it clarifies the effect of the disclaimer. When you file a disclaimer of property by someone, a refusal to accept property, that person wants to know and they want to know without any ifs, ands and buts, no weasling, lawyering language about where the property is going to go when I give it up. We have thrashed over this for hours and hours and hours to come up with what we think is as clear a statement as we can provide for the passage of property when the disclaimer takes effect. We think it is a tremendous improvement over what we've got right now.

The second major change that I see right now when you file a disclaimer to make it effective, you take it down to the probate court and file it and this is fine because it provides a public record but there is a very large tax trap

MR. BEARNS: (continued)

which has opened up here for the practitioner who isn't totally on top of this kind of stuff. I'm speaking of the lawyer who isn't totally on top of this. The federal law of disclaimers and this is very important, the state and gift tax law is that if someone makes an effective disclaimer, there's no gift tax on the property, it's as if it passed at the moment of death to the person who takes under the disclaimer statute.

That's very important because if the disclaiming person -- let's go back to the spouse disclaims and the disclaimer is not effective for state law purposes, you have a disclaimer that's not effective for federal gift tax purposes and you've got a whopping gift tax on your widow, which she might have to pay right then, diminishing the assets she has on hand to live on. The trap that we've been worried about is this. In '76, now mind you that's four years after the last disclaimer legislation went through, the federal law was changed completely with respect to disclaimers and what the new statute says it's not filing with the probate court that makes it effective for federal purposes, it's delivery of the disclaimer to the executor.

Now what we've been worried about and why we want to change this statute is if somebody doesn't get right on top of that new federal law and they file a disclaimer in the probate court and they don't make a delivery, they've got a disclaimer which is effective for state law purposes, the property will actually pass from the widow to the kids, but you will not have the protection of the Federal Gift Tax Statute and the widow has been walked by bad advice right into a very large gift tax. This statute substitutes delivery to the executor for filing in the probate court.

Other things I think are important is there is a broadening -- not a tremendous one, but a broadening to the maximum extent we could without running into problems in other areas of who can disclaim and what can be disclaimed. We think that's important because we think we should have a disclaimer that's as broad and as flexible as we can put together.

Finally, the Succession Tax impact is lined up with the effect of a disclaimer so that if the widow disclaims the property is taxed at the rate of the people who actually

MR. BEARNS: (continued)

take it instead of the way the will was written. We think that's important so that you'll have the same kind of tax consequences for state tax and federal tax purposes.

REP. TULISANO: Can I ask a question?

MR. BEARNS: Yes sir.

REP. TULISANO: Around line 263.

MR. BEARNS: This is what I've been afraid of. 263, wait a minute, let me take my glasses off so I can read it.

REP. TULISANO: Joint survivorship, real property. Disclaim what you already own. I mean as I recall the law of survivorship, the people know about it when they got into it and it had certain --

MR. BEARNS: Not real property. Surviving joint tenant of personalty. We stayed away from the real property.

REP. TULISANO: What's the difference between real property in the terms of the law of real property or personal property in joint tenancy or right of survivorship?

MR. BEARNS: You mean why didn't we say real property too?

REP. TULISANO: Let's leave it at the personal property. How can you justify if the person knows you're buying a vehicle together which includes survivorship under our motor vehicle law --

MR. BEARNS: Why should they want to disclaim it?

REP. TULISANO: Well, why should you -- once they knew about it, when they entered into it, and that has certain results flowing from it --

MR. BEARNS: Right.

REP. TULISANO: I mean, they knew that and now why give them an opportunity to do this now.

MR. BEARNS: Well, that's a good question. I think it's pretty

MR. BEARNS: (continued)

hard to end up owning a car jointly with someone and not knowing about it, although I suppose it could happen. I mean, it's pretty hard to conceive of it.

The example we had in our minds when we put this together, Mr. Tulisano, was a situation which has arisen in the experience of some of the people in front of you here this morning, which is where you have a joint bank account which is made joint and one person doesn't know about it. And then comes a time when mother dies or something like that or they die or they want to get it out of their hands, so that if they do die before mother, it won't be taxed in their estate.

You following me on this or am I being too technical. That's a situation --

REP. TULISANO: (speaker inaudible)

MR. BEARNS: Well, I -- common misconceptions about attorney's incomes.

REP. TULISANO: No, my clients I'm talking about. I don't have any bank account. Representative Parker.

MR. BEARNS: Yes, ma'am. I'm sorry I can't hear you.

REP. PARKER: Banks insist that both parties sign in a joint account, so how could you not know.

MR. BEARNS: Somebody else want to take a shot at this one. Because that was the example I had in mind -- no, you're absolutely right.

REP. TULISANO: (speaker inaudible)

You have a that's a trust but not really as a survivorship. It's a hybrid of the banks. (speaker inaudible)

(speaker inaudible)

MR. BEARNS: Something like that, savings banks and trust accounts.

REP. TULISANO: Mr. Walter Kozloski, who wrote the original disclaimer bill for the State of Connecticut and logically talks next, I think can speak to this question. Walter.

WALTER KOZLOSKI: Yes, I'm Walter Kozloski and I was one of the original draftsmen of the bill nine years ago. And fortunately, we were able to pass the disclaimer back in 1972. Insofar as that question directed about joint bank accounts, I think that's true. Most banks do require signatures. However, there are instances where there is a partnership agreement or a contract, which permits the owner to name a surviving partner or a surviving joint tenant.

For example, there are many, many stock clubs that provide for the participant to name a surviving owner, on death. And in these instances, the beneficiary is not necessarily aware of the fact that they are going to take. So that there are instances.

Now, we eliminated the joint property for real estate at the request of Mr. Galavant. Tom Galavant. He felt that it would be better for us not to have it and I agreed with him wholeheartedly, so that we do not enter into the real estate field at all.

REP. TULISANO: I mean that has certain --

MR. KOZLOSKI: Yes, we want to stay away from that. I would like to add a few comments, though, about the federal law. Since January 1, 1977, it becomes impossible to make a gift in excess of \$3,000 to any person, without having that gift includable in the person's estate at death. And I think it's going to give a great deal of impetus to disclaimers. A much more careful looking at, should we actually receive this property from an estate now or should we disclaim.

And this is really the primary reason for the bill being proposed in its present state. The federal law presumably was passed to cause uniformity among the many states. Unfortunately, when the regulations were issued last year, they did just the opposite. They set up a number of requirements that you must conform to in order to have

MR. KOZLOSKI: (continued)

it effective for federal law. But, then they permit local law to also -- in other words, if a disclaimer is ineffective for local law, it's ineffective for federal law. But, in addition to that, one must conform to all the requirements of the federal law. And we're very much afraid that if we don't revise this statute to conform to the federal law, someone may conform to Connecticut law and miss out on the federal aspects.

And it is not necessary that the person be subjected to a federal estate tax to have -- in effect of this, because I have a situation where inadvertently -- or a father left a summer home to a daughter and the residence to the son. There were only two children. He sold the residence at the shore and died only owning the residence. And in that way, he disinherited the daughter. The brother did not want this result, so he disclaimed and ended up where his sister took a half-residence and he took a half-residence. If he had accepted it and then made it a gift, the value of one-half of that residence would have been includable in his estate at his death and that might have been 30 or 40 years from now.

I think that most people don't realize that they have to file a gift tax return, otherwise of the value of the gift is then included in their estates toward the value -- in other words, the value is only set if you file a timely gift tax return. If you do not, then the federal government may argue with the donor as to the value of that property, years and years after the gift is made.

So that the attempt in this Disclaimer Act is to conform to federal law, but also to simplify the aspects so that the Connecticut residents would not fall into tax traps unwittingly. I have one proposal for this bill and I wonder if it will have any success with the Committee.

There were seven members of our estate section that were appointed to this Disclaimer Committee and three of us felt quite strongly that we should give the benefits of the federal law to the Connecticut residents. And this is concerned with the age of 18 or 21. And I hesitate to bring it up, but is a very important benefit for a

MR. KOZLOSKI: (continued)

person between 18 and 21, to be given the opportunity to make this decision within nine months after he or she attains the age of 21. This is not a restriction on the use of this disclaimer, but it's a benefit which is specially conferred to a person between the ages of 18 and 21.

As this bill is presently drafted, the Connecticut residents cannot take advantage of this extension of a three year period. Making a disclaimer is a very momentous decision and I would like -- I personally would like to see the right extended so that it can conform to federal law.

And the federal law has permitted age 21 for many, many aspects in the federal tax law. I would like very much to see the Connecticut law afford the opportunity to those between 18 and 21 to conform. I have suggestions that will permit this, but I didn't want to make them in the original bill. Three of us felt very strongly that we should and the other four felt that if we made the bill so technical that it might have endangered its passage. But I would strongly urge that we give these people the added benefit that the federal law permits.

Another addition to the bill that I would suggest is that we add a Section 15, which would read as follows: This Act shall take effect from its passage. The reasoning for this is because there is a great deal of confusion between the federal law and the state law and the sooner that we can make the federal and the state laws as close to possible simultaneous, the better it will be for our citizens.

I would also like to speak, just briefly, to the two year limitation on that power of attorney, the other bill. I have some strong reservations about the constitutionality of that. I feel that it's a restraint on the right of a citizen to contract. And I wonder if that is, as I say, constitutional, to permit -- in other words, you are denying a person freedom of contract, which is assured by the federal constitution.

REP. TULISANO: We do that all the time here. We just put limitations on those contracts. I suppose we could
(speaker inaudible)
Everyday we limit what contracts you can make.
(speaker inaudible)
We do this all the time.

MR. KOZLOSKI: But this is a prohibition --

(speaker inaudible)

REP. TULISANO: We do lots of things like that. We tell people they can't rent -- who they can rent their property to. We tell they can't evict people, what's new.

(speaker inaudible)

MR. KOZLOSKI: Well, obviously it'd be great for lawyers. But, I don't think we really want to renew our powers of attorney every two years, but it would be great for business. But I don't think it would serve the public for us to want to renew our powers of attorney every two years.

REP. TULISANO: There's a large section of the bar who feel otherwise. I tell you that. They represent old people without money, rather than old people with money. I don't know -- is there something in the old -- there's a section of the (speaker inaudible)

MR. KOZLOSKI: Yes.

REP. TULISANO: Then that's where that comes from.

MR. KOZLOSKI: I see. Well, I think the Estates and Probates Section would like to indicate it's opposition to that.

I don't know if there are any questions on what I.

REP. TULISANO: You've convinced many of us why we should all run for congress (speaker inaudible)

I mean it seems silly that we have to conform our law to that law all the time.

MR. KOZLOSKI: It is. We're boxed in. We really have no alternative.

REP. TULISANO: Comments anyone. Chuck (speaker inaudible)

CHARLES MANTELL: Mr. Chairman. I'm Charles Mantell. I'm on the Estates and Probate Section of the Connecticut Bar Association. The only thing I'd like to add. I think we've all discussed the clarification that this Act will bring to us and the broadening effect.

I'd like to just stress the age 18 amendment that we have included in this bill. Under our present statute, a minor can only disclaim if the minor has a guardian appointed or someone has a guardian appointed for the minor and the guardian then can go to the Probate Court for permission and disclaim the property.

A guardian is very reluctant to make a disclaimer for a minor. The proposal -- the proposed statute allows the minor to attain nine months to disclaim the property, after they attain the age of 18. I think this is a significant change from the old law, conforms to -- in concept to the federal statute, which allows -- it doesn't refer to minority or majority, it just allows a disclaimer to age 21. That is nine months after attaining the age of 21.

So this is a great liberalization and a benefit to the minor in the State of Connecticut. I do agree, I am one of the ones who do agree, that age 21 might be preferable, because when people make disclaimers, they are very often looking at the federal statute, which says age 21. It doesn't refer to state law and I think there will be some confusion if age 18 is used. Although age 18, as I said, is a tremendous improvement using the age 18 limitation is an improvement over the prior law, because at least gives the minor an ability to disclaim after attaining the age of 18.

I think there is a big distinction between using -- fooling around with -- I know there's a reluctance to use the age of 21 as opposed to 18, because under this law, majority is age 18. The reluctance was expressed

MR. MANTELL: (continued)

with the Uniform Gift to Minor's Act, but you would change it, I'm sure, and we're not bringing it up. In that case, we were restricting rights of minors and I can see where there might be some reluctance in that area.

However, in this particular case, we are trying to extend greater rights to the minor. We're trying to extend the same rights that they might have in other states and do have under federal law. However, they will not be able to take advantage of the rights under federal law, fully -- at least between the age of 18 and 21, if we do not have the age of 21 on the state law. Because, you have to have a valid disclaimer under state law before you get into the federal law.

That's about all I want to say for that.

REP. TULISANO: (speaker inaudible)

Then they ought -- supposed to recognize that there are states, you know and --

MR. MANTELL: Yes. They do. Unfortunately --

REP. TULISANO: (speaker inaudible)

Tells them the majority is -- you don't have to worry about that, I have to worry about that.

MR. MANTELL: I would like to submit for your consideration, in reviewing this Act, Mr. Kozloski and myself have written on this Act and some of the changes. It's appeared in an article entitled, "Probate and Tax Consequences of Disclaimers in Connecticut," in the December Bar Journal. And I think it explains concisely a lot of the -- some of the technical aspects and I think it may be helpful in analyzing it. So I will leave this with you and that's -- you want to say anything, Meylent.

MEYLENT ARMSTRONG: I'm Meylent Armstrong. I served on the subcommittee also. While my colleagues on the Committee, rightfully, are most concerned with the tax consequences, I would like to emphasize that in my practice and experience that it's not only tax consequences, but there's some very good human results that can be achieved by the use of disclaimers.

MR. ARMSTRONG: (continued)

By broadening the Act, as this -- the statute as this Act does or would do, we are providing a flexible framework for achieving some of these human results, as I would call them. An example might be where people of modest means might have done a will and they have had all -- a simple will when they were young and all the property passes to the wife and that's not good for the family as a whole.

So by the use of disclaimers, as talked in an earlier example, it can go down to children. There may be other situations where the results, because of a plan that hasn't been put together properly, it can be changed after the fact to correct what anyone looking at it fairly would say, would be inequity among family members. And these come up with -- other than very rich people, they can be used for people who have very modest means.

I have -- I won't talk any longer on that. I don't think I have a better example than that in that area. And the only other word I would say is on the durable power of attorney, it really is used, in my practice, as a day-to-day planning for the future, to avoid the conservatorship. It was discussed and mentioned about the horror of the conservatorship. The sheriff serving the person.

These can -- if they're cut off at the end of two years, it's just not going to work, really. Because what you do, is you plan, you put the durable power of attorney in the file, and it may be years later until that is actually needed. When the person, maybe because of advanced age becomes senile. And I think that to -- it should be considered very seriously before putting a two-year cut off on it.

REP. TULISANO: Well, we can designate conservatorship under another form.

MR. MANTELL: Yes.

REP. TULISANO: I mean some of these things have been patchworked, so maybe they should all be --

MR. MANTELL: But the designation of conservatorship is again gets you involved with a complex proceeding which may not be needed for a more simple situation.

REP. TULISANO: Can I ask one thing back, about that 18 year old disclaimer. I have read it in detail. I'd like to just take potshots at this. The 18 year -- now inheritance comes when they're 16. You not giving him until 18, nine months after 19, to disclaim it. Is that what you are trying to do. Do I understand your intent. For the properties vested in his estate has just been distributed, what's happened to the gain. You will get the benefit of that. I mean how can he disclaim it if he's getting the benefit of that.

MR. TATE: He cannot receive the benefits -- cannot receive any of the benefits (speaker inaudible)

REP. TULISANO: Okay.

MR. TATE: If I could just -- there appears to be a division among us on this 18, 21 business. I'd like to explain it.

REP. TULISANO: I don't know about the division on that. I just want to know the effects of it.

MR. TATE: Well, just -- if I could say why we put 18 in. And this was the majority view and I guess you might call it the Tulisano view. We were reacting to last year and here's the reason for it in a nutshell.

Yes, we could give to age 21 and that is an advantage. But in order to get the advantage, under the federal tax regulations, the minor cannot have received the benefits of this and if, under the federal regulations as they are proposed, if -- under state law he would have a right to disclaim, the person 18 would have had a right to disclaim, and he didn't do it for nine months, then he has accepted. Therefore, to say that he has to 21 would -- is really not true.

Because under the federal regulations, he's lost his right to disclaim. That's a trap. The only way we can cure that trap is to say that nobody, between 18 and 21 can disclaim. The minute we say that, we have to talk

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MR. TATE: (continued)

to Representative Tulisano and some others who feel that people above the age of 18 should be able to do whatever anybody else can do. So we settled for 18. That's the reason we did it.

REP. TULISANO: I'm trying to find out what happens conceptually. Someone dies, the inheritance, \$500,000, comes to me and I'm 17 and I have a child. I'd rather give it to my kid.

MR. BEARNS: You can't disclaim under this bill, because -- Take a look at Line 340, under Page 11. Okay. The reason that solid cap, Phase 3, acceptance of such interest of any of its benefits, is in there.

REP. TULISANO: So, once it's gotten to me --

MR. BEARNS: If you've accepted the benefits, you can't disclaim them. That's very important, because if you've accepted the benefits, you are killed for federal gift tax purposes. And if you then disclaim effectively, the Federal Disclaimer Statute protection is gone. You've got a taxable gift.

REP. TULISANO: If I'm 17 and have no control over that issue.

MR. BEARNS: I suppose there would be situations where it would be possible to keep the minor from accepting any benefits under -- I'm just guessing.

REP. TULISANO: I'm trying (speaker inaudible) realize how that happens.

MR. BEARNS: The federal regulations deal with that and they make certain exceptions.

REP. TULISANO: Okay. I got it. The bill is a little off. Okay. Thank you.

MR. BEARNS: Thank you very much. I hope you will pass this.

REP. TULISANO: We'll reread it. That's for sure. Mr. -- excuse me, Kovacs.

MR. PEICHERT: (continued)

I'd like to comment on another bill I don't have here. I don't know the name of it, something about inheritance. I believe you got a bill here something about inheritance. Regulations. It is this regulation that has destroyed the ability to pass something on to our heirs. We don't need government to tell me who I'm going to leave my estate to and then tax us on top of it. And when a federal comes in and says we have to do this, they are in violation of Amendment IX. And Amendment X protects you people from taking the power away from us.

The Preamble to the Constitution very specifically and is self-explanatory. We, the people, who form this Constitution, and you men and women who run for public office must abide by that Constitution. It is so important to remember those things.

We had a mandate last November. Regardless of whom you may have voted for, the people are tired of the awesome power of unjust government, on all three levels. Local, state and federal. I say the bills that I have spoken on and the one pertaining to inheritance should be taken and stripped from the market. It's not to get the criminal, it's a backdoor approach to take away our constitutional rights, without infringement to bear arms. Thank you, ladies and gentlemen. Are there any questions from any of you people.

SEN. OWENS: No, thank you. For a change of pace, Mary Ann McCarthy.

MARY MCCARTHY: Thank you, Mr. Chairman. I'm sorry I wasn't in the room when you called my name before. I've been back and forth to the Bank Committee. My testimony is very brief. I hate to follow the gentleman before me.

On Raised Committee Bill 1399, an Act concerning statutes relating to trusts and probate matters, the Connecticut Banker's Association would like to go on record as supporting --

SEN. OWENS: The number, Mary Ann, please.

MS. McCARTHY: 1399. The Connecticut Banker's Association would like to go on record supporting this bill. I believe it has been very thoroughly discussed this morning by the draftsmen who testified earlier.

It's a clarification of the statutes relating to trust and probate. That's it.

SEN. OWENS: Thank you, Mary Ann.

MS. McCARTHY: You're welcome. Thank you.

SEN. OWENS: All right, Mr. -- I think our last witness today is -- or was there someone else. I called you, but you were gone out of the room. No, no, I'm not going to forget you.

(speaker inaudible)

SEN. OWENS: I won't be able to sleep if I don't put you on. Robert Gorgoglione.

ROBERT GORGOGLIONE: I come from 24 Canal Street, Willimantic. And I'm opposed to Bill 7355, because as the previous speaker said, it is the backdoor approach. I am opposed to any kind of restrictions or controls on firearms, of any kind, including registration of firearms or ammunition.

I'll say the old saying that some people were saying for quite awhile and that is, that -- how does it go -- guns don't kill people, people kill people. Many crimes are committed, not just with guns, but with knives, with bats, running people over, poisoning people, whatever it might be. If somebody wants to kill somebody, he's going to do it. Especially if he's somebody who's intent on murdering somebody for whatever reason.

I feel this bill, and other bills like it, in varying degrees, do nothing but discourage law abiding citizens from owning firearms, to protect themselves. In England, for quite a few decades, they did not allow their people to own firearms at all and at the same time, they would not allow the police to carry firearms. But 60 years ago, 70 years ago, in England, when people had -- there were no restrictions on firearms whatsoever, and the crime

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of less than fifteen thousand instead of the present seventy-five hundred.

I move if there is no objection that it be placed on the CONSENT CALENDAR.

THE PRESIDENT:

Hearing none, so ordered.

THE CLERK:

Cal. 434, File 665. Substitute for Senate Bill 1399. AN ACT CONCERNING STATUTES RELATING TO TRUSTS AND PROBATE MATTERS.

Favorable report of the Committee on Judiciary.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS: (22nd)

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

THE PRESIDENT:

Will you remark?

SENATOR OWENS:

Yes. This bill would amend the existing law relating to disclaiming property durable powers of attorney in the Fiduciary Powers Act. The bill would alter the method for and the time period within which to

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make a valid disclaimer and I would ask that if there is no objection that this bill be placed on the CONSENT CALENDAR.

THE PRESIDENT:

Hearing no objection, so ordered.

THE CLERK:

Page twelve of the Calendar, Cal. 435. File 390. Substitute for House Bill 5328. AN ACT CONCERNING REGIONAL SCHOOL DISTRICT BUDGETS.

Favorable report of the Committee on Education.

THE PRESIDENT:

Senator Schneller, Senator O'Leary is not here. Did you wish to report the bill out or do you want another marking? Senator Schneller.

SENATOR SCHNELLER: (20th)

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

THE PRESIDENT:

Do you wish to remark?

SENATOR SCHNELLER:

Yes, Mr. President. This bill would permit regional school boards to recalculate their apportionment on the basis of the current school year population and it would adjust the payments required for the

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THE PRESIDENT:

Hearing none, so ordered.

The Clerk will please make an announcement for an immediate roll call on the Consent Calendar which you are about to read.

THE CLERK:

An immediate roll call will be called for in the Senate. Will all senators please take their seats. An immediate roll call will be called for in the Senate Chamber. Will all senators please be seated.

THE PRESIDENT:

Please give your attention to the Clerk who will read the second Consent Calendar for today.

You will recall that we did adopt a Consent Calendar, now this is another Consent Calendar that we have established.

THE CLERK:

The second Consent Calendar for today is as follows: Page nine - Cal. 411. Page eleven - Cals. 430, 432, 433 and 434. Page twelve - Cals. 435, 436, 437, 438 and 439. Page thirteen - Cals. 441, 442, and 446. Page fourteen - Cals. 447, 449, 450, 451 and 452.

That concludes this Consent Calendar.

SB268, SB826,
SB1066, SB1353,
SB1399, HB5328,
HB5357,
HB5394,
HB5764, HB7292,
HB5701, HB7318,
HB5345, HB7300,
HB7353, HB7365,
HB5913, HB6603

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THE PRESIDENT;

Are there any changes or omissions? The machine is open. Please record your vote. The machine is closed. The Clerk will please tally the vote.

Result of the Vote: 34 Yea - 0 Nay. THE

CONSENT CALENDAR IS ADOPTED.

Senator Schneller.

SENATOR SCHNELLER:

Mr. President, I would like to announce that because we are adjourning tonight and we have a long day tomorrow and many members would like to leave at a reasonable hour, the Senate will convene at noon tomorrow rather than the one o'clock that was previously announced. Hopefully, we will get out by five thirty or six o'clock tomorrow.

The Democratic caucus will meet at eleven o'clock promptly. We will get in here as close to noon as possible so that we can work our way through the calendar.

Mr. President, I would move that we recess at this time at the Call of the Chair. There may be some business completed in the House that we might like read in later this evening. So we will recess rather than adjourn to the Call of the Chair.

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REP. JOHNSTON: (51st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Kevin Johnston.

REP. JOHNSTON: (51st)

Mr. Speaker, I move for acceptance and passage of two bills on the Consent Calendar, Calendar No. 628, File 665, Sub. SB 1399 and Calendar 669, File 800. Sub. SB 393.

SPEAKER ABATE:

All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Those opposed nay. The ayes have-it. Are there any additional Points of Personal Privilege?

REP. GROPPPO: (63rd)

Mr. Speaker.

SPEAKER ABATE:

Rep. John Groppo.

REP. GROPPPO: (63rd)

Thank you. Mr. Speaker, there will be a technical session tomorrow, Saturday, May 30, at 8:30 A.M. and a regular session, Monday, June 1, at 2:00 P.M.