

No. 4
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Thursday, January 30, 1997.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Connie B. Binsfeld.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Bennett—present
Berryman—present
Bouchard—present
Bullard—excused
Byrum—present
Carl—present
Cherry—present
Cisky—present
Conroy—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—excused

Emmons—present
Gast—present
Geake—present
Gougeon—present
Hart—present
Hoffman—present
Koivisto—present
McManus—present
Miller—excused
North—present
O'Brien—present
Peters—present
Posthumus—present

Rogers—present
Schuette—present
Schwarz—present
Shugars—present
A. Smith—present
V. Smith—present
Stallings—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—excused

Senator John J. H. Schwarz of the 24th District offered the following invocation:

Dear God, remind us that we are here to serve others, not ourselves. Remind us that we are mortal, although made in Your image. Remind us that we are all part of Your creation, equal in Your eyes, as we must be under our laws. Remind us that we have free will to choose between right and wrong. Remind us that when we disagree, a kind word turns away wrath. Remind us that patience and equanimity are Godly virtues and that brevity is the soul of wit. Remind us that we are charged by Your word and our Constitution to pursue justice. And remind us that all things change, even our winters and that spring will come. May these words of the heart be acceptable to you, Lord, our rock and our redeemer. Amen.

Motions and Communications

Senators Posthumus and North entered the Senate Chamber.

Senator DeGrow moved that Senator Schuette be temporarily excused from today's session.
The motion prevailed.

Senator DeGrow moved that Senators Bullard and Dunaskiss be excused from today's session.
The motion prevailed.

Senator V. Smith moved that Senators A. Smith and O'Brien be temporarily excused from today's session.
The motion prevailed.

Senator V. Smith moved that Senators Miller and Young be excused from today's session.
The motion prevailed.

Senators O'Brien and Schuette entered the Senate Chamber.

Senator DeGrow moved that rule 3.902 be suspended to allow the guests of Senator Posthumus admittance to the Senate floor.

The motion prevailed, a majority of the members serving voting therefor.

The Secretary announced the printing and placement in the members' files on Wednesday, January 29 of:
Senate Bill No. 93

By unanimous consent the Senate proceeded to the order of
Resolutions

Senator A. Smith entered the Senate Chamber.

Senator DeGrow moved that rule 3.204 be suspended to permit immediate consideration of the following resolutions:

Senate Resolution No. 6

Senate Resolution No. 5

The motion prevailed, a majority of the members serving voting therefor.

Senator Posthumus offered the following resolution:

Senate Resolution No. 6.

A resolution offered as a memorial for Gilbert J. DiNello, former member of the Michigan Legislature.

Whereas, The members and staff of the Michigan Legislature were saddened to learn of the sudden passing of Gilbert J. DiNello. With the impact he made on this state through his long years of service as a lawmaker and his unswerving commitment to his ideals in several issue areas, Michigan has suffered a loss that will long be felt by many people and organizations. We extend our heartfelt condolences to his family; and

Whereas, A native of Detroit and a graduate of the University of Detroit, Gil DiNello worked for many years in real estate and in banking prior to his initial election to the Michigan House of Representatives in 1972. He came to Lansing with experience in the National Guard and extensive involvement with numerous community groups. Most importantly, he brought a strong belief in articulating the views of his constituents in the legislative process. For three terms, he

distinguished himself in the House. In 1979, he brought his insights and vigor to the Michigan Senate. Throughout his twenty-two years as a lawmaker, he distinguished himself through his committee work and through his strong feelings for working men and women in this state; and

Whereas, In his four terms in the Michigan Senate, Gil DiNello carved a reputation with the great passion he brought to issues before the Senate. His colorful style reflected his personal sense of the importance of making government work for the average citizen. Political concerns or expediency never dissuaded Senator DiNello from raising an issue. He will also be remembered for his abundant personal warmth. Indeed, his commitment to Macomb County and to all of Michigan's people and their shared future will not be forgotten; now, therefore, be it

Resolved by the Senate, That tribute be accorded to honor the memory of Gilbert J. DiNello, who served the Michigan Legislature for twenty-two years as a lawmaker; and be it further

Resolved, That a copy of this resolution be transmitted to Senator DiNello's family as evidence of our lasting esteem.

The question being on the adoption of the resolution,

The resolution was adopted by a unanimous standing vote of the Senate.

Senator DeGrow moved that rule 3.204 be suspended to name the Lieutenant Governor and the entire membership of the Senate as co-sponsors of the resolution.

The motion prevailed, a majority of the members serving voting therefor.

Senators Posthumus, Carl and Hart asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Posthumus' statement is as follows:

We're honored today to have with us Gil's sister Joanne, niece Jennifer Einikus and close friend Nancy, they're behind me, I'd like to have them just stand for a moment.

We, in the Senate, remember Gil well. He was a close friend for many of us and he represented his district well for a number of years from 1970 to 1994. The people of this state knew what Gil stood for and will long remember that and will miss Gil as I know that you do. We just want you to know how much we appreciated him and we know you miss him as we will.

Senator DeGrow moved that the statement made by the Lieutenant Governor be printed in the Journal.

The motion prevailed.

Lieutenant Governor Binsfeld's statement is as follows:

I also served with Gil, both in the House of Representatives and in the Senate when I was a Senator. My thoughts and prayers are with you and the family as you miss him. He did give a great deal of service to the state of Michigan and was appreciated.

Senator Carl's statement is as follows:

I just wanted to add my remarks in memory of Senator DiNello. I had the privilege of serving with Senator Gil DiNello, as did most of the current members. What I will remember most about him is that he was a man of strong personal convictions. He upheld the independence of the Legislature, which is a co-equal branch of state government, more than any other person in my view. His steadfast commitment to representing the people was of paramount and for that he will never be forgotten. He was truly his own man, not beholding to others however influential or prominent. He was a fighter for the people and I think precisely the kind of legislator, the kind of Senator that the people back home want when they vote in elections. He was not one to mince words. He told you exactly what he felt. His candor and truthfulness, I think, were one of his greatest qualities. I will miss him and want to thank the family for coming here today. He will be missed very much by the Senate.

Senator Hart's statement is as follows:

I want to echo the sentiments expressed by Senator Carl as they relate to Senator Gil DiNello, my friend. As a family friend I truly miss him. He was a courageous fighter. I really appreciated him, having known his family as well as him. God bless him.

Senators Posthumus and Cherry offered the following resolution:

Senate Resolution No. 5.

A resolution of special tribute in memory of Willis "Bill" H. Snow.

Well done, good and faithful servant; thou has
been faithful over a few things, I will make thee
ruler over many things. Enter into the joy of
your Lord.

—Matthew 25:23

Whereas, It is with deep respect that we offer highest tribute as a memorial for the life of Willis "Bill" H. Snow. On behalf of the citizens of Michigan, we offer our sympathies and respect to the family and many friends of Bill, whose passing has saddened all who had the good fortune of knowing him. He will be sincerely missed and will forever be remembered for his selfless commitment to serving others; and

Whereas, Bill established himself as an effective and ethical leader during his tenure as Secretary of the Michigan Senate. He enjoyed a successful career in state and local politics that spanned over twenty years. He also was an able educator and mentor whose guiding hand was responsible for introducing many current and future leaders to politics and public service. The life of Bill Snow is a study in the power of hard work, dedication and commitment. We are indebted for his dedication and achievements in the Michigan Senate; and

Whereas, Of course, Bill did not quit serving his community after leaving the Senate. He was a concerned citizen who served as co-director of the Michigan Political Leadership Program at Michigan State University and was elected to represent his community as County Commissioner. He was also an active member and leader in the Church of Jesus Christ of the Latter Day Saints; and

Whereas, A loving family man, Bill and his wife Carole enjoyed a marriage of 34 years and raised two children: Kevin and Debra. Clearly, his family should take great pride in this fine man who bequeathed a wonderful legacy of accomplishment and love; now, therefore, be it

Resolved by the Senate, This document is signed and dedicated to offer words of praise as a memorial for Willis H. Snow; and be it further

Resolved, That a copy of this resolution be transmitted to the family of Willis "Bill" H. Snow as evidence of our admiration and esteem.

The question being on the adoption of the resolution,

The resolution was adopted by a unanimous standing vote of the Senate.

Senator DeGrow moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

The motion prevailed, a majority of the members serving voting therefor.

Senators Posthumus and Cherry asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Posthumus' statement is as follows:

We are joined this morning with Bill's wife, Carole and their son, Kevin. I'd like to have them stand up for a moment.

It is a tough day for us in the Senate as we experience the loss of two friends; two committed people to the people of this state. Bill, we all know, was actually, for a while, a constituent of mine living in the Grand Rapids area. He served as Secretary of the Senate, as you all know, from 1987 to 1994. Yet, when he left us, he still remained committed to helping the community by becoming involved through the Michigan Political Leadership Program and last November was even selected, to represent them as a County Commissioner. So, he was serving right to the end. I guess any of you who traveled through East Lansing would remember the signs that said "Think Snow" and that's how a lot of us will remember Bill, that the commitment continued. We're going to miss Bill, and we want his family to know how much we also appreciated the work he did for us.

Senator Cherry's statement is as follows:

I wish to join with the Senate Majority Leader in taking a moment to remember two people who many of us served with. I, too, had served with our colleague, Gil DiNello. Some have served longer with him, but as I recall, we all will remember Gil as a Senator of strong opinion and strong commitment. You couldn't at some point help but find yourself on the other side of the fence with Gil, but never at any point did that ever cross over to impair his ability to work with anyone.

I can recall Gil being particularly helpful to me on a number of occasions. One of the unique things about this institution is people can come here with strong opinions and strong commitment and work with people. Perhaps there are times in the future when we might be able recall Gil DiNello as some help in our efforts to get by disagreement and commitment and bring consensus to issues here before the floor.

Also, I had actually had the opportunity to serve and work with Bill Snow longer. Bill and I were both members of the Senate staff a number of years ago when he worked with Senator VanderLaan and I with Senator Corbin. I had the good fortune when I came to the Senate of being appointed by then Majority Leader John Engler to the Computer Committee. Bill, as Secretary of the Senate, was very active in creating the system that we work with today. His legacy is currently before us. He is the person probably solely responsible for that computer my colleague and friend from Genesee County, Senator Joe Conroy, grew to love so dearly and misses this morning.

Not only did he help create that system, but it was the first in the nation. His legacy is not only a Michigan legacy. We find a number of states now attempting to emulate Michigan's legislative computer system. Bill was not only a pioneer here, he was a pioneer nationally. I know that he had the occasion to be invited by a number of state legislators

to visit and consult and give them some direction about what occurred here in Michigan and how they could meet their problems. Clearly, he was ahead of his time in that respect. I think we all owe him a debt of gratitude. I had the pleasure to continue working with him as he went on into academia. Clearly he will be a person whom I will miss. My condolences to his family. He was a fine individual and he was a credit to this institution, the Senate.

Senator DeGrow moved that the statement made by the Lieutenant Governor be printed in the Journal.

The motion prevailed.

Lieutenant Governor Binsfeld's statement is as follows:

We're very pleased, Carole and Kevin, that you could be here to represent the family today. We were very saddened at hearing of the passing of Bill. We have very good memories of his dedication and service to the state of Michigan, especially here in the Senate.

Senator Bouchard offered the following resolution:

Senate Resolution No. 11.

A resolution urging the Citizen's Stamp Advisory Committee to recommend to the Postmaster General that a lifesaving awareness stamp, "The Gift of Life," be included for the 1999 stamps.

Whereas, On the average seven to eight people die every day waiting for a life saving organ transplant, and there are over 48,000 people in the United States waiting for organ donations today; and

Whereas, One donor has the potential to save six lives, and with bone, skin, tissue and cornea may help as many as 50 people lead healthier lives; and

Whereas, Increased awareness, education and discussion could help solve the problem of the lack of sufficient organ donors; and

Whereas, Approximately 300,000 signatures from 50 states and 12 countries have been obtained on behalf of a "Gift of Life" Organ Donor Awareness stamp; and

Whereas, Surely if commemorative stamps can be issued in recognition of various celebrities it is an even greater priority to issue a "lifesaving" awareness stamp; now, therefore, be it

Resolved by the Senate, That the Michigan Senate strongly urges the Citizen's Stamp Advisory Committee to recommend to the Postmaster General that a lifesaving awareness stamp, "The Gift of Life," be included for the 1999 stamps; and be it further

Resolved, That a copy of this resolution be transmitted to the Citizen's Stamp Advisory Committee, and the Postmaster General.

Pursuant to rule 3.204, the resolution was referred to the Committee on Government Operations.

Senators Stallings, Posthumus, Stille, Shugars and Hoffman were named co-sponsors of the resolution.

The question was placed on the adoption of the following resolution consent calendar:

Senate Resolution No. 12.

The resolution consent calendar was adopted.

Senator Van Regenmorter offered the following resolution:

Senate Resolution No. 12.

A resolution to commemorate Crime Victim's Rights Week as April 13-19, 1997.

Whereas, While the rate of adult crime has gone down, the incidents of juvenile crime has gone up, we must continue our efforts to curb the incidents of crime, through education, law enforcement and effective punishment of those who prey on society. In our efforts to do so, however, we must not lose sight of the victims; and

Whereas, For every crime committed, the true impact on society is immeasurable. When one person becomes a victim, we all become victims. The effects leave none of us untouched. For that reason, it is imperative that we continue to increase the awareness of victim's rights in our state, making the plight of the victim the dominant consideration in the criminal justice process by ensuring the involvement of the victim through such tools as the oral impact statement, appropriate notification, and the assurance of restitution to assist a victim in achieving the financial security he or she had prior to the crime; and

Whereas, The only way the government can assure peace of mind to the citizenry of our state is to continue to remain steadily involved in observing the criminal justice process. By acting upon the input of victims, prosecutors, law enforcement and other victim advocates, we can continue to establish a system that empowers the victim while at the same time taking the preventative measures necessary to assure the public safety and well being. Since the inception of the Crime Victim's Rights Act into Michigan statute in 1985, Michigan has continued to refine the Act, through this input. State officials have been sought out by officials of other states, as well as officials of the United States Government, to share the vision created by Michigan's Crime Victim's Rights Act. This exchange has brought an even

greater realization of the importance of firmly establishing crime victim's rights in America. Indeed, this exchange of information and level of public awareness are the focus of Crime Victim's Rights Week, and continues to serve as a driving force for changes in attitude and law in not only Michigan, but the entire country; now, therefore, be it

Resolved by the Senate, That we hereby commemorate April 13-19, 1997 as Crime Victim's Rights Week and salute the participants in the Candlelight Vigil on April 16, 1997, at Lansing; and be it further

Resolved, That a copy of this resolution be transmitted to the coordinators of this event as evidence of our respect and best wishes.

Senators Bouchard, Stallings, Posthumus, Stille, Schuette, Shugars and Hoffman were named co-sponsors of the resolution.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 18, entitled

A bill to amend 1921 PA 246, entitled "An act to regulate the service, rates, fares and charges of carriers by water within this state," (MCL 460.201 to 460.206) by adding section 7.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 1

Yeas—32

Bennett	DeBeaussiaert	Hoffman	Schwarz
Berryman	DeGrow	Koivisto	Shugars
Bouchard	Dingell	McManus	Smith, V.
Byrum	Emmons	North	Stallings
Carl	Gast	O'Brien	Steil
Cherry	Geake	Posthumus	Stille
Cisky	Gougeon	Rogers	Van Regenmorter
Conroy	Hart	Schuette	Vaughn

Nays—2

Peters	Smith, A.
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Excused—4

Bullard	Dunaskiss	Miller	Young
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Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Peters and A. Smith, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 18 and moved that the statements they made during the discussion of the bill be printed as their reasons for voting "no."

The motion prevailed.

Senator Peters' first statement is as follows:

I'm rising in opposition of the bill, although somewhat reluctantly, because my sympathies certainly go with the sponsor of this bill in that there is a real dilemma on Harsens Island if this particular operator goes out of the business. It's going to put the people of Harsens Island in a very difficult position. I certainly know the good majority floor leader is working hard to resolve a serious issue for those thousand residents on Harsens Island.

However, I don't think this bill is a solution to the problem. I don't think it deals effectively with the issue and nothing is going to result of it. I also think though the bill does raise some other interesting issues in regards to privatization generally when you have a private company providing essential public services to individuals and the potential problems that could result from that private service. I'm reminded of some of the problems that we've had here recently with the state parks reservation system, that went to a private system, and has been basically and financial fiasco for the state. The state had to buy out the private operator and as a result many tourists who wanted to go to our public park system have not gone. We've lost revenue and the system is basically extremely inefficient.

It also reminds me of the doe permits and what has happened with them in this state, where hunters receive multiple doe permits. A complete fiasco with a private company trying to provide some of those services and leaving the state in a very difficult position in trying to deal with it.

Here we have the case of a ferry operator who operates a central public service and even though they are guaranteed a profit by the public service commission, they're saying that profit isn't sufficient and they want an even bigger profit. This bill before us says though that the Public Service Commission can now force that business from not closing its doors and going out of business. Yet there is no authority in law to do that. In fact, the code or the section of the law which is being amended deals strictly with rates and fixing of commissions and has nothing to do with forcing a business to maintain its operation. You can't force a business to continue to operate those ferries. There are no sanctions. There are no penalties or fines if they breach this. In fact, the only thing I can see is if they decided they don't want to operate the business, we're going fine them \$100. Well, I don't think the residents of Harsens Island are going to think that's much of a threat to that ferry owner, that if he decides to stop operation, he's going to be fined \$100. I don't think that that's going to be a solution.

If you had a breach of contract or some sort of contractual obligation and there were some financial damages that could be sued for, you'd have a completely different situation. Unfortunately, this bill doesn't deal with that. It has no force of law. You can't prevent a private business in this circumstance from saying "I don't want to do the business anymore. I want to go away." The state can't force that private businessman to stay in business. I can't support the bill.

Senator Peters' second statement, in which Senator A. Smith concurred, is as follows:

I would like the opportunity to respond to some of the comments. First of all, again both Senator A. Smith and myself are very clear that we are very sympathetic to the plight of those individuals on the island. It is true that they are being held hostage by a business owner who, I know, is making an awful lot of money in that operation. In fact, that is why they don't want to open up their books to the Public Service Commission to ask for the rate increase, because they know they are probably not going to get it because it is probably a gold mine. He is not going to do that and he is holding those folks hostage, that is no question.

My argument is that this bill is not going to force that person not to continue to hold those people hostage. In the bill, the way it is written, there is nothing to force that person from continuing to operate that ferry. The worse that can happen to that individual is a \$100.00 fine. So, even if he does disrupt the service for a period of time and then later has to come back and start the service again, his only fine is \$100.00. I don't think he is going to worry about paying a \$100.00 fine. He wants to get his way to get an even bigger increase. He is going to continue to hold those people on the island hostage. I don't think the bill does what it needs to do.

I believe that Senator DeGrow has the best of intentions. I agree that we need to work with those individuals. The problem is that this bill, within this act of carriers by water—which deals only with the fixing of prices—is not the way to fix it. There needs to be a stronger way of dealing with it. However, I also believe that this definitely does illustrate a bigger issue, as Senator A. Smith has also mentioned, of the problems that we are going to have when we have private companies dealing with central public services. We need to know that we are sufficiently protecting the public from being held hostage in the future. I am definitely concerned about that. We need to address this issue much more effectively than this bill and need to think more carefully in the future.

Senator A. Smith's statement is as follows:

I too understand the concerns that the Majority Floor Leader has for his constituents, but I rise to oppose the bill. My concern is one that I share with Senator Peters and that is that we are creating a very interesting precedent as we deal with private companies operating essential public services. The decisions that those private companies could make that the service that they are operating on behalf of the state is not in their financial or economic interest. That it is not as productive financially as they anticipated that it was going to be. Are we going to be saying to any company that bids on doing essential services for the state of Michigan on a private contract bases, that they may not go out of business for the duration of the contract that they have signed. I am not sure we would get any companies bidding on a job under those circumstances.

Also this bill does not provide a remedy. It seems to me that if we are truly concerned with providing a remedy, we would say that within 90 days a local unit of government would be able to exercise an option to purchase. Which is something they can already do. The Public Service Commission neither supports or opposes this bill. It seems to me that within its own realm, the Public Service Commission has extended the opportunity to the local unit of government to move in and make a bid on the project on the ferry service. Also, there is a resolution that is being devised between the Public Service Commission and the local units of government and this bill will become unnecessary.

Committee Reports

The Committee on Local, Urban and State Affairs reported

Senate Bill No. 93, entitled

A bill to amend 1967 PA 288, entitled "Land division act," by amending section 102 (MCL 560.102), as amended by 1996 PA 591.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Leon Stille
Chairperson

To Report Out:

Yeas: Senators Stille, Dunaskiss, Bennett, Hart and O'Brien

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Local, Urban and State Affairs submits the following:

Meeting held on Wednesday, January 29, 1997, at 1:00 p.m., Room 100, Farnum Building

Present: Senators Stille, Dunaskiss, Bennett, Hart and O'Brien

Scheduled Meeting

Trial Court Assessment Commission - Friday, January 31, at 3:00 p.m., 8th Floor Conference Room, Farnum Building (3-7000).

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 10:45 a.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Tuesday, February 4, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.