

YEAS — 82: The Honorable Speaker Harwood and Representatives Ajello, Anderson, M., Anderson, S., Anzeveno, Archetto, Barone, Benoit, Benson, Bierman, Bramley, Brousseau, Bumpus, Burlingame, Callahan, Campbell, Carpenter, Carter, Caruolo, Castro, Cicilline, Coderre, Coelho, Costantino, Crowley, DeSimone, Faria, Flaherty, Fleury, Fox, Garvey, Giannini, Heffner, Henseler, Kelley, Kellner, Kennedy, Kilmartin, Knowles, Lally, Lanzi, Lauzon, Levesque, C., Levesque, M., Lima, Little, Lombardo, Long, Lopes, Lowe, Lynch, McDevitt, McGowan, Menard, Metts, Millard, Montalbano, Montanaro, Moura, Murphy, Naughton, Palumbo, Palumbo, Quick, Rabideau, Raptakis, Reilly, Rose, Russo, San Bento, Sherlock, Simonian, Slater, Smith, Teitz, Voccola, Walter, Wasyluk, Watson, Williamson, Winfield, Zainyeh.

NAYS — 0.

34A. (96-H 8388) (Substitute "A") An Act relating to redevelopment agencies.

Committee on Corporations recommends indefinite postponement of the original bill and passage of Substitute "A".

Received and by unanimous consent ordered to be placed on the Calendar for Tuesday, July 23, 1996.

NEW BUSINESS

Representatives Caruolo and Salisbury introduce (96-H 9309) House Resolution extending condolences.

Representative Caruolo requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on motion of Representative Caruolo, seconded by Representative Salisbury, and by unanimous consent, on a rising vote.

Representatives Caruolo and Salisbury introduce (96-H 9310) House Resolution extending congratulations.

Representative Caruolo requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on motion of Representative Caruolo, seconded by Representative Salisbury, and by unanimous consent, on a voice vote.

COMMUNICATION FROM THE SENATE

A message from the Honorable Senate transmits with announcement of passage, of the following measure:

(96-H 7576) (Substitute "B" as amended) An Act relating to sexually violent predators.

Representative Caruolo requests unanimous consent for immediate consideration.

There is no objection.

Representative Caruolo moves passage of the act, seconded by Representatives Palumbo, Montanaro and McDevitt.

Representatives Cicilline, Caruolo and Palumbo discuss the act.

The bill marked Substitute "B" is read and passed, as amended, in concurrence, and the original bill and the bill marked Substitute "A" indefinitely postponed, on a roll call vote, 77 members voting in the affirmative and 3 members voting in the negative as follows:

YEAS — 77: The Honorable Speaker Harwood and Representatives Anderson, M., Anderson, S., Anzeveno, Archetto, Barone, Benoit, Benson, Bramley, Brousseau, Bumpus, Burlingame, Callahan, Campbell, Carpenter, Carter, Caruolo, Castro, Coderre, Coelho, Costantino, Crowley, DeSimone, Faria, Flaherty, Fleury, Fox, Garvey, Gaschen, Giannini, Heffner, Henseler, Kelley, Kellner, Kennedy, Kilmartin, Knowles, Lally, Lanzi, Lauzon, Levesque, C., Lima, Little, Lombardo, Long, Lopes, Lowe, Lynch, Martineau, McDevitt, McGowan, Menard, Metts, Millard, Montalbano, Montanaro, Moura, Naughton, Palumbo, Panciera, Quick, Rabideau, Raptakis, Reilly, Rose, San Bento, Sherlock, Simonian, Slater, Smith, Teitz, Voccola, Walter, Wasyluk, Williamson, Winfield, Zainyeh.

NAYS — 3: Representatives Ajello, Cicilline, M. Levesque.

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Providence Journal

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New selection process the charm for Bourcier

BYLINE: M. CHARLES BAKST

SECTION: NEWS II, Pg. 1D

LENGTH: 1482 words

You have to be happy for Superior Court Judge John Bourcier, Governor Almond's choice for a Supreme Court seat. Certainly, Bourcier fans would say the selection demonstrates that the new high court nominating process works.

Almond eyes some modifications.

And part of the process in the Bourcier nomination is only starting to play out: hearings and confirmation votes in the House and Senate.

In the meantime, those who welcome the selection of Bourcier can take satisfaction in knowing that a Republican governor, handed four names by a screening panel that is at the heart of the new procedure, picked a Democrat. The obvious partisan choice would have been Bill Dimitri, a respected lawyer but also a GOP warhorse who worked for Almond in the office of U.S. attorney.

The fact that Dimitri was approved by the screening panel would have given Almond some "cover." Still, you can imagine the cries of "Cronyism!" had the governor gone with his old buddy.

Speculation is that Dimitri will yet surface on the bench - in the Superior Court seat that Bourcier is to vacate - en route perhaps to an eventual Supreme Court seat.

Almond, who says he "tried to put out of my mind any personal considerations" in weighing Dimitri and the other high court candidates, shrugs off questions about the future. Is Dimitri headed for Superior Court? The name would first have to come from the judicial screening panel, Almond says.

Ask Dimitri if he wants to go on the Superior Court and he asserts, "I haven't thought about it."

A more dramatic measure of the selection of Bourcier for the Supreme Court is that he got nowhere in 1993 when he sought a high court seat under the old system for selecting members of that tribunal: election by the General Assembly, with no role by an outside screening panel or the governor. That Supreme Court seat went to Victoria Lederberg, a former legislator who was backed by House Speaker John Harwood.

When Almond picked Bourcier this time out, there was an outpouring of accolades. Superior Court Presiding Justice Joe Rodgers, who went to the State House for the announcement, called Bourcier "truly the brains on the trial court."

Lt. Gov. Bob Weygand hailed him as "one of the finest jurists that we have."

No knock on Bourcier - or on Lederberg - but if Bourcier's so good, why couldn't he do better in 1993? "Obviously," said Rodgers, a former senator, "he doesn't have a lot of friends here."

Weygand, a former representative, said, "It has to do with politics versus merit."

And Harwood, who also praised Bourcier, said he didn't know why Bourcier didn't do better in 1993 but that he had backed Lederberg, an academic, because he thought she was what the court needed at the time, someone with a more "well-rounded" background than a trial judge.

Bourcier, 68, said last week that perhaps he had been naive, but he had thought the Assembly election would be an "open process." He had the Bar Association's top rating and media backing.

But, in the old system, the House speaker was the key. Besides that, Bourcier says, "I'd never been in the General Assembly, so I couldn't go to anyone and say, 'Vote for me, you remember me.' Secondly, I'm on the bench. I can't go to lawyers who are in the General Assembly and say to them, 'I wish you'd vote for me.' "

Most early word on Bourcier, a graduate of Brown University and Vanderbilt Law, has been upbeat.

Former Gov. Phil Noel, who named him to the Superior Court in 1974, says he first met Bourcier when he was a young lawyer himself and was struck both by his scholarship and courtroom presence. "He was an outstanding student of the law and knew how to prepare a case and then go in and try it," says Noel.

Legal secretary Harriet Chase Sharp, who now is a Supreme Court staffer but once worked in Bourcier's law office, says, "He very rarely relaxed over golf. His relaxation was law."

And she says Bourcier, in dictating a brief, would pause to explain. "He'd stop and say, 'Do you understand that, Chase?' Sometimes he'd say, 'If you don't understand it, maybe they won't understand it either.' He made me feel very good."

Bourcier, now of Gloucester, used to be wrapped up in Johnston politics. He came up with the idea of having insurgent candidates Ralph Russo and Mario Russillo insert the letter "a" in front of their names to win better ballot positions.

Ralph aRusso, who eventually became an institution as Johnston mayor, says, "John was 10 steps ahead of us all."

It is almost a given that the House and Senate will confirm Bourcier. But there is some liberal Democratic grumbling.

Bourcier is known as "Maximum John" for long sentences he gives in such cases as murders and child molestation.

Sen. Rhoda Perry and Rep. David Cicilline, both of Providence, wonder about the expense of such sentences.

Cicilline, a defense lawyer, says sending someone to prison for 30 or 40 years is "costly" and "ineffective."

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Bourcier says of legislators who second-guess him on this front, "Any one of them who wants to take any of these defendants home for home confinement, I will gladly give them home confinement. . . . What do you do with a dangerous criminal? Do you release him into society and then he commits another crime?"

On the other hand, he prides himself, in some cases, on alternate punishments, such as sentencing a woman arrested for possessing narcotics to live with her parents, continue her schooling and write to him every month.

In the area of free expression, Senator Perry found "excessive" the 10-day jail stints Bourcier handed out in 1985 to some antinuclear sympathizers after he had sentenced five of their colleagues for damaging Electric Boat missile tubes. To show their disapproval, the spectators had stood and silently turned their backs on Bourcier.

A divided Supreme Court upheld Bourcier's right to punish disruptive spectators, but the justices did set aside 3 days of the 10-day sentences.

Last week, Bourcier said, "You have to maintain the integrity of the courtroom. Otherwise, you'll have a Judge Ito situation. . . . It becomes a circus."

Rep. Sandra Barone of Barrington says of Bourcier, "The only thing that really frightens me about him just a little bit is his eagerness for the death penalty."

Bourcier says he once opposed the death penalty but now feels it is justified in, say, vicious murders like that of the Brendel family.

He says that he would not lobby for a death-penalty law. But, he says, should one come before the court, he would uphold it if it complies with U.S. Supreme Court guidelines and contains adequate review safeguards.

Sen. Will Fitzpatrick of Cranston is up in arms over Bourcier. This goes back to an informal legislative forum a couple of years ago. Fitzpatrick says Bourcier made a "disgraceful" comment regarding a defendant with AIDS who was seeking leniency.

Fitzpatrick says:

"His comment, his glib coment, was that 'I didn't give him AIDS and if, in fact, he's had it for two years, he should be dead by now.' "

Bourcier says Fitzpatrick misconstrued him. He says the comment came amid discussing letters that judges get in regard to sentencing. He says a man was before him for sentencing for bank robbery. The defense counsel, seeking a light sentence, submitted a doctor's letter that the same defendant had used with another judge in a case four years earlier. The letter said he was expected to die within two years. Bourcier says he told the lawyer, "Thank God he's still here; he should have been dead two years ago, according to this letter."

Fitzpatrick wrote to Almond in opposition to Bourcier. Almond says he did not see the letter.

In the 1993 Supreme Court go-round, Fitzpatrick cited a bar survey in which some lawyers complained Bourcier "demonstrates biases towards or against litigants or attorneys" and that two lawyers complained that Bourcier made sexist comments.

Bourcier says, "That's absolutely asinine." He says the survey was anonymous, with no substantiation, and he notes that a number of women judges or lawyers have spoken up for him.

Too, he trots out court system "report cards" - also anonymous - in which lawyers and jurors give him rave reviews.

"I've been a fair judge and a good judge," he says.

He certainly has a sense of humor. On his desk is a dollar bill encased in a plastic block.

He says he went golfing once with lawyer James Sloan 3rd at the Point Judith Country Club. Bourcier faced an 18-inch putt to win the match. Sloan said, "I'll bet you a buck you blow it." Bourcier blew it and paid him the buck.

A few weeks later, Sloan sent over the dollar, encased in plastic, with the notation, "5/1/85, Bourcier, J."

The judge smiles, "I've always taken that as a constant reminder that we're not infallible."

M. Charles Bakst is Journal-Bulletin political columnist.

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