

Legislative History for Connecticut Act

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CONNECTICUT
GEN. ASSEMBLY

HOUSE

PROCEEDINGS
1957

VOL. 7
PART 5
2427-2922

Monday, May 20, 1957

DBK
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THIS the one? Excuse me, I think I'll go home.

MR. PADULA: (NORWALK) At Mr. Sheehan's desk.

Mr. Speaker, I'm here now. I move for the acceptance and passage of the bill.

Everyone wanted this bill. No opposition. I hope it passes.

MR. SHEEHAN: (WEST HARTFORD)

This bill directs the Metropolitan District of West Hartford to furnish a high level service to an area presently not serviced by the Met. District in West Htfd. It will prevent a fire hazard and a health hazard and will open up a large area of W. Htfd. for future development.

THE SPEAKER:

Question is on acceptance and passage. The 'ayes' have it.

Bill is passed.

THE CLERK:

Cal. 1431. H.B. No. 525. Reimbursing Vernon W. Pherson for damage to personal property.

CLAIMS.

The bill was explained by Mr. Smith of Hebron.

THE SPEAKER:

Will you remark further. If not, question is on acceptance and passage. The 'ayes' have it. The bill is passed.

THE CLERK:

Cal. 1404. File 1007. Sub. for H.B. No. 1421. Incorporating the Assodation of Winthrop Neighbors, Incorporated.

INCORPORATIONS.

MR. PIPERB (EASTFORD)

I move for acceptance and passage.

This act provides for incorporating the section of Deep

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River known as Winthrop into the Association of Winthrop Neighbors. It carries a referendum. Good bill. Hope it passes.

THE SPEAKER:

Remark further. If not, question is on acceptance and passage. The 'ayes' have it. The bill is passed.

THE CLERK:

Cal. 1423. File 973. Sub. for H.B. No. 829. Concerning the reimbursement of the Benjamin Fitch Estate.

CLAIMS.

MR. LITTLE (ROCKY HILL)

This bill would reimburse the estate of Benjamin Fitch in the amount of \$50,000.

The story on this bill dates back many years to the time when the late Benjamin Fitch gave to the State a parcel of land with buildings, for the purpose of establishing an Old Soldiers' Home with the understanding that if the State ever abandoned the property as a Soldier's Home, that it would revert to the heirs of said Benjamin Fitch. Some years later the government declared they could no longer continue the grant unless the State obtained complete control of the property without this residuary interest. Believing there was no possibility of the property ever being used for another purpose, William Maltby, then secretary to Gov. Holcomb, prevailed upon the 91 year old Mr. Fitch to release his interest.

After a few more years during which the State continued to receive the federal grant of \$25,000 per year, the property was abandoned and subsequently given to the town of Darien for a housing development. The appraisal of the property at this time was \$50,000. The heirs felt that under the terms of the original agreement this amount fairly belonged to them. The matter was heard by a referee of the Superior Court who ruled in their favor, which was upheld by the Judge of the Superior Court, but upon being referred to the Supreme Court, the decision was 3 to 2 against the heirs.

Ex-chief Justice Maltby, the man responsible for this situation, has appeared at 3 sessions of the committee, and in each case stated that had it not been for his enthusiasm as a young lawyer to persuade old Mr. Fitch, that this case would never have come before the Claims Committee.

The Committee agrees with the Chief Justice that there is a

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THE CLERK:

Cal. No. 1378, File 1007, Substitute for House Bill 1421.
An Act incorporating the Association of Winthrop Neighbors,
Incorporated. Favorable report, Incorporations.

THE CHAIR:

The Senator from the 26th.

SENATOR SIBAL:

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

THE CHAIR:

The question is on acceptance of the committee's favorable
report and the passage of the bill. Will you remark?

SENATOR SIBAL:

This bill sets up this Association in the town of Deep
River and its express purpose is to provide for the health,
comfort, protection and convenience of the people within its
bounds. It sets up certain running authorities which pertain
to these benefits. It further provides for an appeal to the
Court of Common Pleas of any one who is aggrieved by it and it
further provides that it shall not become law unless approved by
a majority of the people living and owning property within the
bounds of the Association. It's a good bill and should pass.

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THE CHAIR:

Any further remarks? If not, all those in favor signify by saying AYE, contrary minds, NO. The "AYE's" have it and the bill is passed.

THE CLERK:

Cal. No. 1379, File 1003, Substitute for House Bill 668.
An Act authorizing the Pearce Construction Company to sue the State. Favorable Report, General Law.

THE CHAIR:

The Senator from the 12th.

SENATOR FILER:

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

THE CHAIR:

The question is on acceptance of the committee's favorable report and passage of the bill. Will you remark?

SENATOR FILER:

Mr. President, this would permit the Pearce Construction Company to sue the State concerning disputes over certain drainage and other problems in the building of the Hamden Child Study and Treatment Home. It's a good bill and should pass.

THE CHAIR:

Further remarks? If not, all those in favor signify by

JOINT
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Victor Dowling, Old Lyme (cont'd): ducing any amendatory legislation without prior consideration and approval at an annual meeting. That has not been the situation in this 1418. ✓

Rep. Larson: You don't think that this prior circumstance that Miss Canty talked about indicated prior approval of that?

Victor Dowling, Old Lyme: I think not. This all took place prior to our meeting in June of '57 and it was specifically stated that no amendatory legislation would be introduced without prior specific approval of the subject matter we introduced.

Rep. Larson: I'll just ask you one more question. We have a certain time within which to report this bill out. Would you ask our committee to hold up, and you contact your people, or would you be against such a proposal as that?

Victor Dowling, Old Lyme: I think you didn't quite understand our situation. We have an annual meeting that now we must hold, as things stand now, on the third Tuesday of June. This cannot be acted upon prior to that time.

Rep. Larson: All right, thank you. Anyone else wish to speak in opposition to the bill? The hearing is closed on House Bill 1418. We'll go next to House Bill 1421. ✓

H. B. 1421 (Mrs. LaPlace & Mr. Larson) AN ACT CONCERNING THE INCORPORATION OF THE ASSOCIATION OF WINTHROP NEIGHBORS.

Ernest A. Inglis, Jr., Hartford: I am with the law firm of Day, Berry and Howard. I am the legislative agent who drafted this up for legislation.

We have several amendments to offer at this time, and I will turn them over to your clerk. Most of them are merely technical corrections, however, we have even downgraded this bill from the very minimum restrictions that we had in originally.

We do amend the area involved to make it

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Ernest A. Inglis, Jr., Hartford (cont'd): more accurate, and I did want to make one further amendment. I can either send it in to you or give it to your secretary now.

Rep. Larson: You can send it in and also mention it briefly.

Ernest A. Inglis, Jr., Hartford (cont'd): Well, it's just in regards to the area. We're going to knock out Bahr Road because it bends around, and just include one landowner. This is the western portion of Deep River and it's a natural community. It has been an association for many, many years, and people living in the Winthrop area have always considered themselves as living in a community.

I wanted to point out that under our amendments we not only insist on a majority, that is in the referendum, but we are insisting that a majority of all voters in the town and landowners also who are not voters, must approve this before it becomes effective. That is, we could have a meeting and the majority could approve and that might not be enough providing its majority of all the legal voters in this area plus the landowners who are not voters---that is who live outside.

We have one other major amendment, and that is we're asking for exceptions to the above restrictions that may be granted in individual instances upon the approval of a majority present at any annual meeting providing a petition for said exception or variance has been presented to the presiding officer thirty days prior to said annual meeting. That is, if we find that these restrictions are too strict in any individual case that a variance may be allowed, so it's very hard for me to conceive a hardship.

Chr. Larson: You're talking in general, not to a specific property owner but in general your dumping or something like that? You're not referring to one specific landowner, are you?

Ernest A. Inglis, Jr., Hartford: There is a part to amend the zoning ordinance and so forth, but I was

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Ernest A. Inglis, Jr., Hartford (cont'd): speaking now of what any town that has zoning would be comfortable to or zoning board of appeals, but it would be a majority of those present. I am thinking of an instance where a man owns ten acres and he would like to put a Connecticut Company bus up in the middle of this ten acres on a lake and use it as a fishing shack. Now, one of our few restrictions is floor space of a dwelling house. It has to be 719 square feet. Under our amendment, you have five years in which to get to that 719 square feet.

Rep. Bentley: That isn't very much, 719 square feet.

Ernest A. Inglis, Jr., Hartford: Well, I've never seen anything quite this low, but we want to knock out just plain shacks but we didn't want to keep anyone from building their own home and starting a small area. As you see, this is a real minimum restriction, but all we want to do is protect this area from real nuisances or offensive industry and keep out shacks. If you'll read through it you'll see it's minimum all the way through. We would allow industry as long as there is a one hundred foot sideline or rear line; restaurants have to have a thousand square feet; we do not allow hotels as we could see no way of passing on good hotels and bad hotels; we don't have trailer camps and so forth, but I drafted this after there had been several discussions of the existing association that want to do something and I got the impression they wanted it minimum and they didn't want to deprive anyone of their property rights, but they did want to protect their land values to some extent. Do you have any questions on the provisions?

Rep. Larson: Just specifically on that variance. I assume that, I think you have your spot zoning business and I assume there would be a way to appeal to a court by an adjacent landowner.

Ernest A. Inglis, Jr., Hartford: Yes, any action taken may be appealed immediately to the Superior

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Ernest A. Inglis, Jr., Hartford (cont'd): Court and we give that fact, and I didn't put in reasonable here because I didn't think it was necessary. We're not zoning up, you see, this is only going down. This is allowing somebody to a slight variance from the very low minimum requirements that we have established.

The major objection we got from anyone, and I can state an overwhelming majority in this area is for this, was the idea of not being able to build a home by starting out with two or three rooms and then going larger so we did change the bill to allow a period of five years to extend your house to the minimum square footage.

Rep. Piper, Eastford: I just thought of a horrible thing, supposing you got to the fifth year and you were broke and you hadn't met the requirement, now what happens to that half-built house?

Rep. Marsh, Redding: You'd have to go for a variance under that condition.

Ernest A. Inglis, Jr., Hartford: Yes, I think you would, and that's one reason we wanted that in. I would assume that the association wouldn't be too hard on somebody who momentarily found themselves in a position where they could not expand, but there aren't many homes that are built that are less than 719 square feet. This is to keep out shacks and Quonset Hut type buildings which we specifically state.

Are there any other questions? I have two people with me today, and I'd like to call Mr. Zimmerman, the president of the association.

William J. Zimmerman, Deep River: I am the present president of the association. There isn't much that I can say that hasn't been covered by Mr. Inglis, but I might just say this. The Winthrop area is a very old area and it's very urbane, in fact it's so far out in the woods my own father, five miles away, says, "What are you doing way out there". The purpose

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William J. Zimmerman, Deep River (cont'd): of this bill is to keep it more or less in that respect and we are trying to prevent junk yards from developing and sewage disposals of any kind and so forth. At times people might say, "We'll take it way out in the woods and dump it". We've also mentioned anything of an objectionable odor or anything like that, but all this has been included in the bill so there is no point in my going over that.

I might just say that at the meeting that we had Monday night, a letter was sent around to all the property owners that we could get from the tax lists, and at the meeting we had thirty-seven people. Four of the people were in opposition. This is just trying to analyze the situation a little bit.. I think the opposition is trying to do exactly the same thing that we're trying to do. They want to leave things exactly as they are, but they want to go one step farther...they don't even want to have any laws to make them stay exactly as they are, and we would like to have something to back us up to keep us in the situation that we are now in.

Rep. Piper, Eastford: How many property owners are there?

William J. Zimmerman, Deep River: We sent out 187 letters so it's very close to that number.

Rep. Piper, Eastford: At this meeting there were only 37?

William J. Zimmerman, Deep River: It's such a rural area there are property owners -all over the country. There are a lot of people from New York that have homes there.

Rep. Larson: How much notice did you give them?

Ernest A. Inglis, Jr., Hartford: As far as this one meeting is concerned, I asked anyone that might be opposed to please come and let me know so the meeting was more or less to iron out to those who were against it. I wanted to explain to them how it would help them and not hurt them. There was only four days notice, however, there is a present association of this same merit

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Ernest A. Inglis, Jr., Hartford (cont'd): incorporated but I want to make that over and get a new corporation, and this has been discussed in that group three or four times, in fact, several times.

Rep. Sweeton, Canton: This doesn't carry the power to collect dues.

Ernest A. Inglis, Jr., Hartford: I assume that nominal dues could be charged to carry expenses. It is primarily going to be a negative group rather than a positive group. They aren't going to be doing a lot of work. The regulations are here and, as you see, they really are minimum. I can't think of anything in here that I certainly would not want on property next to me, and for that reason I don't think you'd have too much to worry about.

Rep. Reed, Bethel: Have you any zoning in your town?

Ernest A. Inglis, Jr., Hartford: No, we do not. This almost isn't zoning because any zoning would have this residential. We'd allow all sorts of things that zoning would not allow.

Rep. Larson: Anyone else wish to speak in favor of House Bill 1421?

James McGregor, Deep River: I am a resident of the area we are discussing, this being the Winthrop area of Deep River. I would like to speak in favor of this bill and to say that I believe that the majority of the people in the area are in favor of it, as you have already heard.

I might also state that I have a letter from one man who resides in New York City. He stated in his letter that he was very interested in this; he was entirely in favor of it and very hopeful that he would hear that it would go through, so that at least one of those who reside part of the time outside of the area was interested and is in favor of it.

One thing hasn't been mentioned and that is to why this has come up, and John (Mr. Larson) perhaps you should tell me whether it's necessary to take up the committee's time to mention the reason why this has all come up, or perhaps you

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James McGregor, Deep River (cont'd): can give it to them when you have your executive session.

I do want to say that I hope your committee will be in favor of this bill.

Rep. Piper, Eastford: I'd like to ask one question... If there is to be a referendum, and that if a majority of the people vote for this then it takes effect?

James McGregor, Deep River: Yes, I think it's in Section 12.

Ernest A. Inglis, Jr., Hartford: Yes, and I go further in the amendment. We originally had it a majority of those present, and now we have a majority of everybody, and they can vote either presently or by proxy, so we'll get a vote from just about everybody.

Rep. Larson: Is there anyone else to speak in favor of this bill? Is there anyone opposed? If not, I'll call the hearing on House Bill 1421 closed. We'll next go to House Bill 1790.

H. B. 1790 (Mr. Terrell) AN ACT AMENDING THE CHARTER OF THE WINTON PARK ASSOCIATION, INCORPORATED.

Rep. Larson: I'll hear first those people in favor of the bill.

Norwick Goodspeed, Fairfield: I am appearing as attorney, secretary and legislative agent for the Winton Park Association, which is a neighborhood association of residents in Fairfield. There are about thirty-five families involved who own property totaling about seventy acres, a small neighborhood area in the town of Fairfield.

We have a charter which was enacted in 1937 by the legislature. It has been amended once in 1949, at which time our restricted covenants were renewed, and we now come before you with some further amendments all of which are pretty routine and are non-controversial.

Section a of the bill, as you can see, simply specifies particular powers to be