

Legislative History for Connecticut Act

HB 2970	PA 133	1963
House 1183-1195		(13)
Senate 1318		(1)
General Law ⁴⁰¹ 402, 427-428		4(2)

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CONNECTICUT

GENERAL ASSEMBLY

HOUSE

PROCEEDINGS

1963

VOL. 10, PART 3

APR. 2 - APR. 18

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Tuesday April 16, 1963

26

THE PEOPLE THAT ARE BEING PROTECTED, when I vote on this bill I shall vote for it considering that fact that when my wife and my children are driving on the gighway I want a doctor to stop and render the assisstance that he can render in an emergency and do all that he can without worrying that someone someday is going to sue him for a judgment make in an emergency. I think it makes good sense and I shall vote for it.

DMS

THE SPEAKER:

Are you ready for the question. The roll call machines are about to be unlocked. Will those people who are not members or employees of the general assembly please leave the hall. I'm about to unlock the machine. Have all those voted who wish to vote. I will now lock the machine and the clerk will give the tally.

THE CLERK:

Whole number voting	262
Necessary for passage	132
Those voting yea	241
Those voting nay	21
Those absent and not voting	32

THE CLERK:

House Bill No.2970. An act concerning Voluntary exemption of Town, City and Borough Governments from Local Zoning Regulations. Favorable report joint committee on General Law.

MR. McNAMARA (East Hartford)

Mr. Speaker, I move for acceptance of the joint committees favorable report and the passage of the bill.

THE SPEAKER:

Will you remark?

Tuesday April 16, 1963

27
DMS

MR. McNAMARA (East Hartford)

Mr. Speaker, this bill changes only in part the present legislation which concerns itself with zoning regulations. Presently there is some question as to whether or not cities towns or boroughs come within the zoning regulations, when the city town or borough has zoning. The purpose of this bill is to allow them to exempt themselves if their legislative body so votes from the zoning regulations. At the hearing before the general law committee there was no opposition to this bill. We think it is a good bill and I urge it's passage.

MR. LENCE (West Hartford)

Mr. Speaker, I would like to support this bill I think it is merely a statement of what the existing law is for municipality is silent on it and has not exempted itself it; is subject to it. I think it is however good legislation and it is clarifying.

MR. BUCKLEY (Ansonia)

I yeild to the gentleman from Manchester.

MR. GROOBERT (Manchester)

Mr. Speaker, I would rise in opposition to this bill. I haven't heard any good reason stated by anyone yet why this bill should pass. The only reasons offered was that the laws of the state are confused and if that is the case then you ought to pass a bill that would do just the opposite of what this law does, to eliminate that confusion. It seems to me that a cunicipality stands on the same footing as any private person whether that person whether that person is an individual or a partnership or a corperation. It seems to me that if an individual under our zoning laws can't put the pig in the parlor then neither should the municipality. You have zoning so that you don't have the pig in the parlor but by permitting the municipality without notice seems that the fly in the face of our entire zoning concept. More than that Mr. Speaker, we look to the

Tuesday April 16, 1963 28

LEADERS THAT ARE our governments to give us an example to set a precedent and DMS if we tell the people of our state that a municipality can do as it pleases without regards to a comprehensive plan, without regards to our zoning requirements then certainly we are not exercising that type of leadership which our people are intitled to. I know of no reason what so ever why this bill should pass and I strongly opposed to it. I can cite many examples where cities and towns under the theory that they are not subject to zoning regulations have gone ahead and done things that private individuals could not do. I won't go into those things other than to state them as general principals. I want to hear one reason from anybody here on either side of the aisle why this bill should pass. Until I do and until someone can convince all of us that it ought to pass I think it ought to be defeated.

MR. LATER (Wetherfield)

Mr. Speaker, I rise in support of this bill, this bill actually does provide that any city town or borough adopts the provision of this chapter may by vote of its legislative body exempt municipal property etc. Now this actually provides that if you have a town council as we do in Wetherfield, if they want to exempt their town body from zoning we must have a public hearing and pass it like any other ordinance, and this will provide the people of the town with the chance to come down and voice their objection of the town of the zoning regulations . At the present time there is no provisions for this the entire area is cloudy and this is a good bill it should pass and it would clarify a sticky situation.

MR. KING (Tolland)

Mr. Speaker, I wish to agree with the speaker from Manchester that this bill would do nothing but render confusion to the situation that already exists. Many town councils of which I happen to be one have rendered opinions and I think on good authority that at the present time municipalities can claim

Tuesday April 16, 1963 28

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Tuesday April 16, 1963 29

EXEMPTION IS BY A VOTE OF THE BODY OF THE TOWN. If the legislative body of the town does not provide that vote then the question will become whether the town is entitled to exemption without the vote or not under the existing law. I think when that situation occurs it is a confusing situation now and it will be many many many fold increased under this bill.

MR. McNAMARA (East Hartford)

Mr. Speaker, it would appear that we have the best of all possible worlds without the bill on the one hand it's thought that the bill ---that the towns on one hand are subject and on the other hand they are not. It is my thinking that in supporting this bill that for example we should have zoning situation where the area of the town was triple A residential yet it would benefit the children of the town to have a library in the area, this meets the definition of residential if some property owner wishes to claim that a library doesn't fall within the terms of the zoning regulation. It is true that most towns will say that the town does not, but we have heard persuasive argument from the gentleman from Manchester which would indicate that there is feeling that the town does. I would for one would like to give the governing body of each of the towns if they so wish to exercise it. The power to decide if they are going to be under the zoning so there is no confusion if the town wishes to place the library or any other of its services which it has to the people of this town. I cannot conceive of any town governing body who must act in the interest of any voter of their town at election time putting a pig anywhere that the people of their town would not support. After all the legislative bodies must answer to the electors seems to me Mr. Speaker, that this legislation does clear the confusion that presently exists. For the reason I urge the passage of the bill.

MR. PETRONI (Ridgefield)

Tuesday April 16, 1963

30

MR. PETRONI (Ridgefield)

DMS

Mr. Speaker, there is some doubt in my mind as to the language used in this amendment. I question whether the legislative body of the town must except itself when the enabling zoning legislation is passed by a town or maybe legislative body of the town exempt municipal property of any kind after the zoning act is adopted. I think that could be a serious defect and it would have to be after the zoning act is adopted. I think that could be a serious defect and it would have to be tried to get a decision. I don't think that we should be here awaiting some decision from the supreme court of errors on this kind of change. On that basis I move that the bill be recommitted.

MR. SPIEGEL (Trumbull)

Mr. Speaker, I would object of course to any recommitment I don't happen to share the same problem with the language with the gentleman from Ridgefield the language I think is clear and concise, any city town or borough which adopts the provision of this chapter make by vote of its legislative body exempt municipal property from the regulation. And we all know that today in many towns which have zoning regulations they have what they all call special exceptions. And in many towns municipal improvements are already exempted by vote of the zoning commission, in regulations as adopted. Whether or not this is desirable or whether or not this should require the further approval of the legislative body, is a question at the moment. As I read this bill, a legislative body could vote at any time; today or in the future, to exempt itself from the applications of the zoning regulations so that it would apply to the towns presently covered. One thing I wish to reiterate, in section 824 of the general statutes which is presently the law, and which was considered by the committee in that even if the municipalities should exempt itself from its zoning regulations, it still can't

Tuesday April 16, 1963

31

DMS
undertake municipal improvements without getting the approval of its planning commission. And if its planning commission chooses not to give that approval the planning commission can be overruled by the legislative body of the town. There will be adequate safeguards, there will be a system of checks and the future development of these towns will be protected in accordance with a comprehensive plan.

MR. PADULA (Norwalk)

I oppose the motion to recommit, all of us here as we have said many times work hard on these bills, I'm sure that every chairman sitting around here is going to have bills of their own, and they are going to stand up in their own majesty and they are going to say as these gentlemen are saying now, we move for the acceptance of the committees favorable report and the passage of the bill. Those are not just idle words. What they are really saying is, that we have considered this in all of its details, we've explored it in every possible way, it is our considered opinion that it's a good bill and it ought to pass and I believe that is exactly what we should do now.

MR. BUCKLEY (Ansonia)

Mr. Speaker, I would oppose recommitment, I hope this bill is voted upon and defeated on the floor this afternoon. I feel that the language of the bill is such that makes it completely inapt and incapable of interpretation, the bill, the amendment in the last 4 or 5 lines does not say the action of the legislative body will be by motion, ordinance or resolution. It doesn't say whether the exemption will be a wholesale exemption to apply for ever more, or whether it will be concerning one particular piece of property or one particular building, besides that the whole concept of this type of an exemption violates the present character of the zoning ordinances or procedure in our community. Zoning and planning

Tuesday April 16, 1963

32

commissions are i powered to change and make zoning regulations not the legis-
lative body. The legislative body adopts and ordinance establishing the
planning and zoning commission. I don't feel further that just because a
committee makes a favorable report that the committee cannot by any conceivable
circumstance be in error, because the committee does render favorable report
that this should be an imposition upon this judgment of these people who sit
here in this house who have a duty to exercise their own free judgment and
own free will. Therefore for these reason I will oppose recommital.

MR. PAWLAK (Seymour)

Mr. Speaker, I have a question in my mind that so far has not been answered.

THE SPEAKER:

The question before the house is on recommital, so you wish to speak
on that.

MR. PAWLAK (Seymour)

I do Mr. Chairman, if the question is answered it will help me make up
my mind whether to vote for recommital or against it. Now I asked the question
previously what good reason might exist for granting this community to the
local legislative body, and one of the gentleman cited a good reason, which was
that in some such situation the city might want to construct a library in a
part of the town which they could not do without this legislation, however how
about the other situation where a town may wish to construct a firehouse or
a garage for it's equipment, it may do so in a residential section for any number
of so called good reasons, now what would happen if a legislative body decides
to exempt itself from the provisions of the zoning laws and as a result of a
passage of a number of years, a

MR. PADULA (Norwalk)

I rise to a point of order.

Tuesday April 16, 1963 33

THE SPEAKER:

The gentleman from Norwalk, state your point of order.

MR. PADULA (Norwalk)

The motion is to recommit, and I submit to you sir that the gentleman is talking not germane to the motion.

THE SPEAKER:

Will you please confine your remarks to the motion to recommit.

MR. PAWLAK (Seymour)

Mr. Speaker, I explained the reason for my remarks I would like to have an answer to these questions that are in my mind. I feel that without the answers I cannot make up my mind however if the majority leader wishes to do so, I will defer my remarks until we have a chance to remark further on the motion.

THE SPEAKER:

Are you ready for the question on recommitment? All in favor of recommitment signify by saying aye. Contrary. In the opinion of the chair the motion to recommit is lost. The question is on the acceptance of the committee's favorable report and the passage of the bill. Will you remark further. The gentleman from Seymour.

MR. PAWLAK (Seymour)

Mr. Speaker, as I was saying before I was interrupted, suppose with the passage of time a legislative body which it had taken upon itself to immunize itself from this requirement of complying with zoning regulations it had been guilty of a number of flagrant violations of the principal of zoning. Is it possible for the towns to digress itself of this community and if so does the law provide for such a procedure? Can a legislative body such as the town council compel future town councils to abide by the same, or would it be required that

DMS

Tuesday April 16, 1963 34

every time a new legislative body comes into existence it would have to pass a new waiver of coverage on to the zoning laws? These are questions that are in my mind. I don't think that they have been satisfactorily answered, and until such time when they are satisfactorily answered I for one will vote against it.

MR. SPIEGEL (Trumbull)

Mr. Speaker, if I understand the question, I shall attempt to answer it by stating that the vote of the legislative body would be no different than the statutes that this body here passes from time to time. Future legislative bodies could repeal, future legislative bodies could amend, they could modify, but until such time that the future legislative body did change the local ordinance then the law would continue to be in existence. I hope that answers your question.

MR. PAWLAK (Seymour)

Mr. Speaker, through you I would like to ask the gentleman from Trumbull, where in the law is that provided?

MR. SPIEGEL (Trumbull)

I think if the gentleman would refer to the general law of the state of Connecticut and not this section he will find sections to cover it.

Mr. SCHLOSSBACH (Westbrook)

Mr. Speaker, for those of us who has read this act the reason for the confusion is obvious, and that is that there is no mention as to the municipality. As is the law most acts are strictly construed, and this committee rightly so placed this amendment or change in this law because what it actually does forces the legislative body of every town to decide for itself just what they shall do with their own property because if you will note at the end of this particular bill it indicates that unless this question is voted upon then a municipality will be in the same position as a private individual, there fore

Tuesday April 16, 1963 35

this is a good bill.

MR. PAWLAK (Seymour)

Mr. Speaker, we all heard the gentleman from Trumbull state that he thinks that there is another law, another section of the general statutes which permits future legislative bodies to voice or repeal an action of a previous body

THE SPEAKER:

The clerk informs me that the gentleman from Seymour is speaking for the third time.

MR. PAWLAK (Seymour)

Mr. Speaker, I would like to differ with the clerk, I think my previous remarks have been on rising on a point of information, and this is on the bill and not on recommittal.

THE SPEAKER:

The clerk maintains that you are speaking for the third time. If you will make your remarks brief since your up please do so.

MR. PAWLAK (Seymour)

Mr. Speaker, we have a long time to go until the end of the session and there will others who will want to speak for the third time. I will not be any longer than I have to, I assure you. The gentleman has said as I started to remark earlier that he thinks that another part of the general statutes does permit the legislative body to repeal actions of preceding ones. For my own particular information, and I sure that there are others in this hall that will be interested in learning it I should like the gentleman be specific in that regard.

MR. SPIEGEL (Trumbull)

DMS

Tuesday April 16, 1963 36

MR. SPIEGEL (Trumbull)

DMS

If the gentleman would like to retain me and come to my law office I'm sure that I could find the answer. This to me is rather elementary question and the difference between a statute and a constitutional provision is such that any legislative body can amend modify or repeal its own acts or acts of prior legislative bodies. It's only when you go into constitutional amendments that it requires that the vote of the people. At the moment I don't know the specific section that would make this statement but I submit that it is such an elementary question that the answer is self-evident.

MR. NOYES (Farmington)

Mr. Speaker, I would suggest to the gentleman from Seymour that he inspect File No. 152 and File No. 158. In each case it is an act amending a previous action of earlier legislation.

MR. BUCKLEY (Ansonia)

Mr. Speaker, I would like to speak for the second time and very briefly on this bill which I oppose. The basic evil of this bill as I see it is as follows. If this bill is passed and if a town and as far as the property in the town is concerned is no longer subject to the zoning regulations of that town until such time as the chairman has pointed out that the legislative body change their decision, but the town property would not be subject to zoning regulations. What would that mean? Well according to Mr. McNamara the gentleman from East Hartford it means that the town could then go ahead and put a library in a residential zone, well that isn't so bad I will agree to that but there are many other things that a town could put in which is not as beneficial as a library and the gentleman from Seymour has pointed out one of them when he pointed out that they could put in a municipal garage. I'll give you another one, they could also put a dump in your own back yard even though your in a triple A residential area.

Tuesday April 16, 1963 37

That is what this bill would permit a town to do without notice to the residents, without a public hearing and without appeal to the court. That is the evil of the bill, as it stands now, any individual when the town does something like that or proposes to do something like that can be hurt. It could happen to you Mr. Speaker, it could happen to any representative in this house if this bill is passed and if the town voted to exempt itself from zoning regulations. The town could come in propose to put up some project next to your home next to the home of your constituent and that constituent would have no recourse before the zoning board of appeals, no recourse before the zoning commission and no recourse before the court. Now the chairman of the general law committee has told you that there is some benefits in Section 8-24, I am familiar with that section and I will say that this is the individual in the community, your neighbor your self, your constituent, no protection because it affords him no appeal to the court. And that is the beauty part of bill as it now exists. If a dump or a town garage or a library or anything that you or I or your neighbor doesn't want he can be heard, he can have his day in court he can have his day or night before the zoning committee but under this bill he will be foreclosed for all times he will not have that benefit. We are depriving him of a basic right by this bill.

MR. LENGGE (West Hartford)

Mr. Speaker, speaking for the second time, there is no evil in this bill. Like the gentleman from Tolland I too have had occasion to study the subject matter in some detail as a town attorney I say that this bill does no more than the law now permits it to do, by its silence most instances the towns have subjected themselves to their own zoning regulations I respectfully disagree with the gentleman from Manchester if the towns take any action based on this permissive legislation the action will be subject to collateral attack in the court.

Tuesday April 16, 1963 38

It will be subject to referendum by the people of the town. The built in safe guards are there, this is clarifying it is needed and it is good legislation and I urge its passage.

MR. SPIEGAL (Trumbull)

Mr. Speaker, I would like to point our purpose of this bill out to the gentleman from Manchester. This bill is to rectify the very situation of which he is afraid, under the present statutes many towns I believe the gentleman from Tolland has spoken here this afternoon already considered themselves exempt from their own regulations. This bill is an attempt to make it clear that they may not exempt themselves without the vote of the legislative body. This gives the people the right to talk to their local legislators, their councilmen or whom ever they may be. This requires full hearing, full notice the same as an ordinance it also would require in the future the section 824 that I remarked about earlier. If they were going to build a dump they would have to get an appropriation for that dump which would have to go through their legislative body the bill presented to the gentleman from Manchester I think is something from what you say that you should be in favor of because it is designed to prevent the very thing you are afraid of.

THE SPEAKER:

Will your remark further? If not the question is on the acceptance of the committees favorable report and the passage of the bill. All in favor signify in the usual manner. Contrary. In the opinion of the chair the ayes have it and the bill is passed.

THE CLERK:

Calendar No. 140. File No. 152. House Bill No. 3396. An Act concerning limitations of the Powers and Duties of Religious Society Committees (An Act Amending Section 33-251. Favorable report joint committee on General Law.

S 49

CONNECTICUT
GENERAL ASSEMBLY

SENATE

PROCEEDINGS

1963

VOL. 10, PART 4

APR. 26 - MAY 14

1099 - 1523

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May 7, 1963

17

THE CLERK:

Business on the calendar: page 1, calendar 263, file 150, HB 2576, An Act concerning Immunity from Civil Liability for Physicians Rendering Emergency Treatment without Compensation. Favorable report of the Joint Committee on General Law.

SENATOR GLADSTONE:

Mr. President, may this bill stand over and retain its place on the calendar?

THE CHAIR:

Stand over retaining its place.

THE CLERK:

Calendar 264, file 151, HB 2970, An Act concerning Voluntary Exemption of Town, City and Borough Governments from Local Zoning Regulations. Favorable report of the Joint Committee on General Law.

SENATOR ALFANO:

Mr. President, I move for acceptance of the committee's favorable report and passage of this bill. All this bill does is make a town indicate by vote whether or not they will be bound by their own zoning ordinances. So if they prefer not to be bound, they can do that by a vote of the legislative body, and if they want to be bound by all the zoning laws, they can certainly indicate. This forces them to make an election.

THE CHAIR:

Further remarks on the bill? Question is on acceptance of the committee's favorable report and passage of the bill. All in favor, say AYE. Opposed? The bill is passed.

JOINT
STANDING
COMMITTEE
HEARINGS

GENERAL LAW

PART 2

331 - 691

CONN.
GENERAL
ASSEMBLY
1963

GENERAL LAW - 2:00 p.m.

FEBRUARY 27, 1963

Chairman Spiegel: Where do you think there might be a conflict of interest?

Rep. Cullen, Bethel: Well, in our particular area, any boards or commissions that we serve on in our particular towns, you cannot serve for any compensation whatever. When you have these, - on your Zoning, you have your Zoning Enforcement Officer who goes out. He makes the inspection, he passes on your applications, and he is compensated on a fee basis. It is just a technical point which we'd like to be straightened out, and perhaps the Committee could come up with a solution to it. But, it does seem to point to a conflict of interest in this case.

Chairman Spiegel: Are you familiar with the present statute on the appointment of a zoning enforcement officer?

Rep. Cullen, Bethel: Not in its entirety. I don't have it with me this afternoon. As I say, this is Senator Hull's bill, and he had to go down to the Judiciary and he will be back up here this afternoon.

Chairman Spiegel: Are there any other Legislators that wish to testify?

Rep. Harold Liebman, Lebanon: Mr. Chairman, I would like to speak in favor of S.B. 894 and the companion House Bill. I'm also a member of the Zoning Board in the town of Lebanon. When our Board started, and went into force about a year ago, we had one of our Board members - a temporary Zoning Agent - and I can say from first-hand experience there was a great deal of grief connected with it. I would not recommend it for any other Zoning Board. There is always a feeling among the people that the conflict of interest could arise. In regard to the object of Rep. Link, the objections which he brought out, we do have a Zoning Enforcement Officer, and a Deputy Zoning Enforcement Officer. I'm not sure whether that's within the letter of the law, but it works out so that if one of these gentlemen is out of town, the business of the Zoning Board can continue as before.

Rep. Chester Later, Wethersfield: I am speaking on two bills. ✓
I am in favor of two bills, the first being #2659,

the bill which I co-sponsored, and this provides for the use of building codes, standards in towns not having building codes. This simply provides that the minimum requirements of the State Code shall apply for all towns which do not have existing building regulations, the purpose being that at least the minimum state standards must be complied with throughout the state.

The second bill which I'm speaking in favor of is H.B. 2970, also co-sponsored by me, and this simply provides that in an area which is presently unclear, there is a question of whether or not a town is subject to its own zoning regulations, and this simply would clarify that issue by providing that a town may by vote of its legislative body be exempted from its own regulations. However, if the town never takes this action, it is then subject to the regulations. I'd only like to add one thing in regard to the previous bill which is H.B. 2659, and that is that I understand that the interim sub-committee of the Legislative Council on licensing questioned why a bill similar to this had not been previously introduced. So, there has been some interest in the matter. Thank you.

Chairman Spiegel: All right. We'll open the hearing on S.B. 45. All those in favor? Are there any proponents on S.B. 45? Is there any opposition to S.B. 45?

S.B. 45 (Senator Caldwell) AN ACT CONCERNING EXCEPTION TO ZONING REGULATIONS.

Chairman Spiegel: If there is no one to speak on S.B. 45, we will close the hearing on that bill.

We will now open the hearing on S.B. 713.

S.B. 713 (AN ACT CONCERNING CERTIFICATES OF OCCUPANCY) Senator Alfano.

Chairman Spiegel: Is there anyone in favor of S.B. 713? Is there anyone in opposition to S.B. 713?

GENERAL LAW - 2:00 p.m.

FEBRUARY 27, 1963

Carmine Lavieri: I am afraid, the way it reads, that it would.

Rep. Hitchcock, East Windsor: That is what I thought. I would not dare vote for it.

Carmine Lavieri: This can be done, incidentally, if we take the time of the Committee to talk about your situation, but some towns have adopted their own building code which in effect is a substantial part of the State building code, leaving out a few objectionable items.

Rep. Hitchcock, East Windsor: This would put the rest of that out wouldn't it?

Carmine Lavieri: Yes, it would, yes. Thank you.

Chairman Spiegel: Does anybody appear in opposition to this bill? We will call the hearing closed.

We will open the hearing on H.B. 2970.

H.B. 2970 (Rep. Later and Rep. Diefenderfer) AN ACT CONCERNING VOLUNTARY EXEMPTION OF THE TOWN, CITY, AND B OROUGH GOVERNMENTS FROM LOCAL ZONING REGULATIONS.

Chairman Spiegel: Does anybody appear in favor of this bill?

Thomas Byrne, Connecticut Federation of Planning and Zoning Agencies: I think I would just like to re-iterate briefly what Mr. Later said when he spoke previously.

There seems to be some doubt as to whether a municipality is or is not subject to a zoning regulation. I think you can find law both ways, and some of it confusing. This would permit a town by vote of its legislative body to exempt itself from its own regulation if it so desires, and we would favor this as clarifying something which apparently had caused some difficulty in some municipalities.

Chairman Spiegel: Do you take it from this bill that the exemption would be an over-all exemption? In other words, they could not decide each individual case whether they were going to be bound by it or not?

GENERAL LAW - 2:00 p.m.

FEBRUARY 27, 1963

Thomas Byrne: I don't think so. It is one way or the other I would think.

Chairman Spiegel: Is anyone else in favor of H.B. 2970? Is there anybody in opposition? We will close the hearing on H.B. 2970.

We will now open the hearing on H.B. 3179.

H.B. 3179 (Rep. Links) AN ACT CONCERNING SUBDIVISION OF LAND.

Chairman Spiegel: Is there anybody in favor? Is there anybody in opposition?

Albert Garafalo, Fairfield: I am an attorney. I think this bill is substantially the same as H.B. 3843 which appears below except as far as time is concerned, and I was asked to speak in favor by Attorney Philip Reinhart of Fairfield whose bill it primarily is.

This bill merely says that a sub-division shall not be defined as it, or shall not cover the transfer or conveyance of substantial acreage. I think the primary idea of sub-division is to control small lots or small divisions. At the present time under the law, why a man cannot even convey a large acreage. He can do so only once. He can sub-divide, or divide a large tract of land only once, and then after that he is subject to sub-division regulations. In other words, if he has a hundred acres of land, and divides it into two fifty-acre parcels, each fifty-acre parcel subsequently is treated as a subdivision. It is the feeling of Mr. Reinhart, for whom I speak, and myself, and some of the members of the Fairfield Bar Association, although they have not taken a formal vote on it, that if a man subsequently divides his land into smaller parcels of land, but not lots - in other words, if he divides a fifty acre tract of land into a smaller parcel of land - into two twenty-five acre parcels, he should not be subject to the sub-division rules.

The bill presented by Mr. Links says that it should be governed by one year, or twelve months, and our bill says five years - one such division every five years. Otherwise, I think the purpose is obvious.