

HB 9023

PA 860

1971

House 2211-2247, 4455-4458,  
6095-6097

(44)

Senate 2601-2605

(5)

Judiciary - 0

49

**H-112**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 5  
1968-2502**

Thursday, May 6, 1971

47.

MBS

Yes, Mr. Speaker. It is a technical amendment Sections 10-269 subsequent to the Committee's favorable report we found had already been repealed. This would correct that.

MR. SPEAKER:

Are there further remarks on the amendment? If not, all those in favor indicate by saying aye? Opposed? The amendment is adopted. It is ruled technical.

VINCENT GAGLIARDI, 103rd District:

Mr. Speaker, I move for passage of the bill as amended by House Amendment Schedule "A".

MR. SPEAKER:

Will you remark?

VINCENT GAGLIARDI, 103rd District:

Yes, Mr. Speaker, the concept of average annual receipts from taxation is no longer applicable having been eliminated by the repeal of Section 19-67, 10-76 and the amendment of 7-374B, which eliminated the phrase "as so averaged" following the words "annual receipts from taxation." Mr. Speaker, this is a housekeeping bill and I urge its passage.

MR. SPEAKER:

Are there further remarks on the bill as amended? If not, all those in favor indicate by saying aye? Opposed?  
The bill is passed.

THE CLERK:

Calendar No. 651, House Bill No. 9023, An Act Providing

Thursday, May 6, 1971

48.

MBS

the Right to Witnesses to Have Counsel in Grand Jury Appearances, file 600.

ROBERT G. OLIVER, 104th District:

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

MR. SPEAKER:

Question is on acceptance and passage, will you remark?

ROBERT G. OLIVER, 104th District:

The Clerk has an amendment.

MR. SPEAKER:

Will the Clerk call House Amendment Schedule "A"?

THE CLERK:

House Amendment Schedule "A" offered by Mr. Mahaney of the 92nd.

In line 37 after the word "jury" delete the word "A" and insert in lieu thereof the words "any accused or any."

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "A".

ROBERT G. OLIVER, 104th District:

Speaking on adoption of House Amendment Schedule "A" I would like to explain briefly what the bill would do so we know where the amendment fits in. The bill is quite similar to the bill that passed the House and Senate in a prior session. This bill amends the statutory provisions concerning grand juries in this state and would add the requirement that a witness appearing before a grand jury shall have the right to

Thursday, May 6, 1971

49.

MBS

counsel of his choice and to be so informed and to appear with counsel of his choice when he testifies before the grand jury. The amendment here before us would add the words "any accused" that is, an accused...a witness, I beg your pardon, who is not an accused is covered by the bill as written, an accused would have the same rights then as a witness who is not accused. I understand there would be some debate on this bill, as such, I wonder if I may inquire, through you, Mr. Speaker, to the gentleman from the 122nd as to whether he would like to have the debate on the amendment or a debate on the bill itself.

MR. SPEAKER:

I'm not aware of any rules that provide for that, will you remark further on the amendment? Are there further remarks on the amendment?

ROBERT G. OLIVER, 104th District:

I...I don't know as I've yielded the floor as such, Mr. Speaker.

MR. SPEAKER:

I thought the speaker inquired of...through the Chair... which is contrary to our rules. Do you wish to remark further on the amendment?

ROBERT G. OLIVER, 104th District:

Well, I think it is a good amendment and I hope it passes.

MR. SPEAKER:

Thursday, May 6, 1971

50.

MBS

This is the first of a series of recorded announcements. Further remarks on the amendment? If not, all those in favor of the amendment indicate by saying aye, opposed? The amendment is adopted and it is ruled technical.

ROBERT G. OLIVER, 104th District:

Mr. Speaker, thank you and thank the gentleman from the 122nd. Speaking on the bill, as amended, and this is, indeed, what we should be debating. This is a very significant piece of legislation, Mr. Speaker. Basically, in Connecticut now, under Section 8, Article 1 of the Connecticut Constitution prosecutions for crimes punishable by death or life imprisonment, that is, capital crimes, the accused must be first indicted by a grand jury. There are only significantly two legislative enactments on the subject of grand jury, to the best of my knowledge, in the Connecticut statutes, involving the procedure that has been in effect in Connecticut for over 300 years. One, is the provision that is in the Connecticut Constitution I just read you. The other....

MR. SPEAKER:

Ladies and gentlemen, will you please give the gentleman from the 104th your attention.

ROBERT G. OLIVER, 104th District:

The other is Section 54-45, the section we propose to amend here today. I repeat, it is important to understand what we are proposing to do. The only time the grand jury, as defined in the Connecticut Constitution, as defined in the

Thursday, May 6, 1971

51.

MBS

Connecticut General Statutes exists, and has a function today, in the Connecticut law, is in basically capital cases, murder, treason and such. It is not serving the function that the federal grand jury does of investigating other crimes other than capital cases. This was not the case in early Connecticut law. Early since the time in old England of Charles II the grand juries had great, great powers. It investigated all capital cases in the early years of 17th and 18th centuries. However, there was then over 200 crimes that were punishable by death or life imprisonment. Gradually, through enlightened legislation over the years we have reduced that just to three or four now.

MR. SPEAKER:

Reluctantly, for the benefit of our good friends the press, I'm against banging the gavel but I'm about to that point. Will the aisles be cleared. The gentleman from the 104th has the floor.

ROBERT G. OLIVER, 104th District:

Mr. Speaker, the Connecticut legislature over 300 years has been loath to legislate, to any great extent, concerning the grand jury, and the courts have, in very, very few cases, commented on them. Basically they have run by custom. But it is clear, since the earliest Connecticut case in 1816, that legislation is possible. So what we propose to do today is altogether possible. Now, I think it is important for us to understand what the function of the grand jury is. It has

Thursday, May 6, 1971

52.

MBS

two functions. It's one an agency of justice and two, an agency of mercy. I think it has been clear it has grown up first acting as a public accuser for the purpose of presenting those charged who ought to stand trial. And remember only for capital cases. Only for capital cases. And secondly, and very important, acting as a public defender to protect the innocent against unjust oppression.

What happens in a grand jury situation is this. Under custom, again, under custom, the state's attorney and his assistants, or his stenographers may be present at the sessions of the grand jury at which evidence is taken. They cannot be present during the deliberations. The earliest Connecticut case said that an accused could be present and could actually inquire of the witnesses presented against him. That's very important. In 1816 the Connecticut court said that. Some subsequent court decisions have indicated that's not a constitutional right. So, again, what we propose to do today is to protect rights that are vital and important. The right not to be put to testify against your own interest under the Constitution. A witness called in, or an accused, as amended, this bill applies to both, would have to be informed by the foreman of the grand jury that he did not have to testify against himself, that he had...then that he could have a counsel present who could advise him when he was actually testifying against himself. Laymen are not generally

Thursday, May 6, 1971

53.

MBS

really able to understand the niceties of the cross examination of the state's attorneys, competent state's attorneys, who may have served for many years before grand juries. Consider yourself before eighteen men, one stenographer and a state's attorney in a closed room with no press present, no open court room, not quite clear in your own mind as to why you are summoned there to give evidence as opposed to someone else, or maybe on yourself. Indeed, a more frightening experience I cannot conjure up and, under our existing law, it is clear you do not have to....

MR. SPEAKER:

Ladies and gentlemen, I'm going to have to ask that staff come to the well of the house and the aisles be cleared before this can continue. We cannot hear the gentleman from the 104th. I find it hard to believe that you can hear the gentleman from the 104th. This means that we have no permanent record if this is the case.

ROBERT G. OLIVER, 104th District:

I hope I don't have to start all over again. And I won't. I really want to stress though, in all seriousness. I can't think of a more frightening, a more terrorizing experience than to be called before a grand jury. You don't really know what you are being charged with, if anything. You don't know if you are asked to give testimony for or against a friend. You are called to give testimony to the truth. Under...you

Thursday, May 6, 1971

54.

MBS

know under the Connecticut and the United States Constitution you can refuse to testify where the evidence would be against you, incriminate you but you don't know really what that is if you are not an attorney. What are you going to do? I think it would be a terrorizing experience. And this bill will go to remedy that. Now, I think it is important to understand that this bill does not, does not in any way infringe on the necessary and proper functions of the so-called one-man grand jury investigating organized crime. Provisions which I wholeheartedly support today. Those provisions are not created under 54-47 of the General Statutes and we use the phrase one-man grand juries, I say to my friends in the press and to those who are not lawyers here, actually that is just a term. That's a term that bears no legal significance. They are not really called one-man grand juries but what they are are commissions of investigations in the commission of crime. So what we do today has no reference whatsoever, so no one before the one-man grand jury, so-called, the commissions to investigate crime, the sort of thing you had recently in Waterbury, the gentleman I'm sure would have reference, on those circumstances this bill would not apply. Perhaps it ought to. Perhaps another session, another day I might offer an amendment to allow a witness to have a counsel with him at that kind of an investigation. But this bill doesn't do it. It only applies to capital cases, at which, at which the ultimate

Thursday, May 6, 1971

55.

MBS

outcome can be loss of your life. I think it is a very serious situation and a terrorizing possible experience and I urge that the House...and I urge the House in its compassionate wisdom to look at the merit of what I am proposing not, not fears about organized crime, to which this bill does not apply, at this time...not fears about possible action by someone in the executive branch...not something else that's not relative to the merits of this bill. It's a good, good humanitarian amendment. It protects the right of privacy, the fifth amendment right against self-incrimination and it in no way hampers proper prosecution of crime.

MR. SPEAKER:

Will you remark further on the bill, as amended?

JAMES F. BINGHAM, 157th District:

Mr. Speaker, I rise in opposition to the bill. Mr. Oliver has stated many of the purposes of the grand jury but he has omitted one of the very important functions of the grand jury, the protection of the people. Now, I'd like to pursue the history of the grand jury, just briefly, Mr. Speaker. The origin of the grand jury actually is unknown. But in the reign of Edward III they had a grand jury and gradually the grand jury met in secret and were no longer required to disclose the evidence that they took. They threw off all restraints of the court and their power began to increase. At that particular time, Mr. Speaker, the government controlled

Thursday, May 6, 1971

56.

MBS

the courts but it found that the courts could not control the grand jury. Under the reign of Charles II the grand jury refused to indict. Its independence, at this particular time, was complete. It acquired sovereignty. It became the defender of the public. Our early colonists brought the grand jury with them. Its duty as a defender of the public was early established. In 1784 the justices of the supreme court voted the grand jury to indict Oswald, the printer of the independent gazette, for his criticism of the conduct of the courts. Again, the grand jury refused to indict. The grand jury, therefore, in history not only a means of bringing to trial persons accused of public offenses but protecting persons of unfounded offenses. Our constitution provides that no person shall be held to answer for a crime the punishment of which is death or life imprisonment unless upon presentment of a grand jury by indictment. The grand jury is the only powerful, investigating body known to our law today in Connecticut. Its broad powers have been firmly established again and again beyond question. The accused has no constitutional right to be present during a grand jury investigation and originally it was discretionary with the court as to whether or not to permit his presence. The custom has grown to nearly always cause the accused to be present. The accused, however, cannot be compelled to testify before the grand jury under our constitution.

Thursday, May 6, 1971 57.

MBS

I agree, Mr. Speaker, that an accused should be advised of his rights. From time immemorial it has been the inflexible rule. And this is the part of the act, Mr. Speaker, that Mr. Oliver has omitted. From time immemorial it has been the inflexible rule that all proceedings in the grand jury room must be shrouded in complete secrecy. The purpose is to protect the effectiveness of the grand jury. And to protect citizens from scandal. We should not, Mr. Speaker, piecemeal change the grand jury system. If correction is needed, with the constitution ordering a complete review should be undertaken with proper constitutional amendments and safeguards. Mr. Speaker, I speak in opposition to the bill and when the vote is taken I request the vote be taken by roll call.

MR. SPEAKER:

Question is on a roll call. All those in favor indicate by saying aye. A roll call has been ordered.

I suggest that we stand at ease while our members return. Are there announcements or introductions that anyone would like to make at this time?

JOHN D. MAHANEY, 92nd District:

Mr. Speaker, I don't know if it would be appropriate at this time, or not, but there are several matters which are to be placed on the Consent Calendar, would you like to use this time to accomplish that purpose.

MR. SPEAKER:

There's no objection to it, so please proceed.

JOHN D. MAHANEY, 92nd District:

Mr. Speaker, at this time pursuant to House Joint Rule No. 48 I would like to move that the following matters be placed on the Consent Calendar and I have reference to page three of today's calendar. The next to the last item on page 3, Calendar No. 0076, Substitute for House Bill No. 6836, An Act Concerning Exemption of Farm Machinery, Livestock and Poultry from Local Property Taxation, file number 700 and file number 60.

And I'd like at this time now to turn to page 10 of today's calendar. On page 10 the first matter on the page, Calendar No. 0721, Substitute for House Bill No. 5333, An Act Concerning Issuing Certificates of Registration to Sanitarians who were in the Armed Forces at the time of the New Requirements for Registration were Passed. File No. 710.

Same page, Calendar No. 0723, House Bill No. 6164. An Act to Provide that the Employees of the Savings and Loan League of Connecticut may Participate in Retirement Benefits with Employees of Savings and Loan Associations. File No. 703.

Turning to page 11, Calendar No. 0732, Substitute for House Bill No. 9193, An Act Concerning Ordinances Establishing Hours of Operation of Places of Amusement. File No. 716.

Turning to page 14, second item on page 14, Calendar No. 0753, Senate Hill No. 1459, An Act Concerning the Establish-

Thursday, May 6, 1971

59.

MBS

ment of Fee Schedules for Services to Needy Persons. File No. 564.

Calendar No. 0754, Senate Bill No. 0784, An Act Concerning Proof of Damages in Hearings in Damages, file number 534.

Calendar No. 0755, Senate Bill No. 1327, An Act Concerning the Service of Orders for Temporary Custody of Neglected Children, file number 535.

If there is no objection, at this time, I move that these matters be placed on the Consent Calendar for tomorrow.

MR. SPEAKER:

Does anyone object to the placing of any of these items on the Consent Calendar? Hearing no individual objection, so ordered.

Are there further announcements or introductions before we return to debate on the bill? If not, will the House please come to order. For the benefit of the members who have just returned to the Hall of the House, we are debating the last bill on page 5, Calendar No. 651, House Bill No. 9023, in your files as file 600. Will you remark further on the bill? Are there further remarks on the bill?

PETER W. GILLIES, 75th District:

Mr. Speaker, I rise in support of this bill. It seems to me it fills a very necessary function in the whole accusatory process from the time when the potential accused is

Thursday, May 6, 1971

60.

MBS

first sought. In this process it is necessary, it seems to me, that he have available and at his immediate call the assistance of able counsel. I have heard of situations where a person was advised of his rights....

MR. SPEAKER:

Will the members please give Rep. Gillies your attention?

PETER W. GILLIES, 75th District:

Mr. Speaker, I have heard of situations where persons who are ordered to appear before a grand jury were advised of their right to counsel and had the rather difficult situation of leaving the hearing room after a question was posed in order to step outside the room, inquire of counsel whether or not he should answer and then return into the room. I would suggest that if I were representing an individual who was to appear before a grand jury, without the aid of this bill, I would probably advise him to take such a course of action. Because without the aid of counsel, as Mr. Oliver has pointed out, I suggest that it is virtually impossible for the average layman, and, indeed, sometimes the attorney, to know at what point he is, in fact, giving testimony which would incriminate you. I think he needs the aid of counsel. Now, this is not some new bill that no one has ever heard of before. This process has been in effect in Massachusetts for many years. Indeed, Massachusetts goes even a little further than this bill and I think in the right direction. Under the Massachu-

Thursday, May 6, 1971

61.

MBS

setts law, after the grand jury has recessed and the person who has been called before the grand jury to testify is called later to testify in the actual trial, the transcript of his testimony before the grand jury is available for the purposes of interrogation. Thus, if there has been testimony before the grand jury which is inconsistent with the testimony at the trial proper it may be brought out for whatever weight it may have. We don't go that far in Connecticut. Indeed, we destroy the transcripts of a grand jury hearing after they have been held. But I think that it is perfectly proper, and indeed, necessary, for the protection of the potential accused. And, again, as Mr. Oliver has pointed out, these are capital offenses. The most severe offenses we know of that he should have, and indeed, must have, if he is to properly defend himself the right of counsel from the very moment that he is asked to appear before a grand jury.

JOHN B. CASSIDENTO, 106th District:

Mr. Speaker, a question, if I may, to Mr. Bingham, through you.

MR. SPEAKER:

Please proceed.

JOHN B. CASSIDENTO, 106th District:

And the question is does Mr. Bingham concede that a witness before a grand jury could walk out of the grand jury room at any time to consult with counsel?

Thursday, May 6, 1971

62.

MBS

MR. SPEAKER:

Does the gentleman care to respond?

JAMES F. BINGHAM, 157th District:

Mr. Speaker, the witness is permitted to walk out of the room and consult with counsel. The reason for that, Mr. Speaker, was the main thrust of our argument. The reason is that grand jury proceedings should be kept in absolute secrecy and if we had ardent defense counsels advising and questioning in the grand jury you would turn the grand jury into a shambles without the presence of the state's attorney as a matter of right.

JOHN B. CASSIDENTO, 106th District:

Mr. Speaker, I support this bill. I do not have the historical background of the grand juries as Mr. Bingham does or Mr. Oliver has, but I dare say that I have a bit of practical knowledge with respect to grand juries having run perhaps well over one hundred of them. And I know what goes on in grand juries, at least federal grand juries. As a result, my practice, when a client appears before a grand jury is to have him walk out of the grand jury room at the end of each and every question and relate the question to me, at which time I will advise him whether he should answer or should not answer. I must say, if nothing else, this bill would save an awful lot of time. Moreover, I never had a Murder One case in this state, here, but it's my information

that the grand jury transcript is not kept, or if kept, is destroyed. This is not even the safeguard one has in the federal system. It is a situation where this bill does not give the right to counsel who appears in the grand jury to ask questions. This bill, as I read it, merely gives the right to a person, to an accused, to a witness, to have an attorney of his choice at his side, in the grand jury room, and, for this reason, I support the bill.

MR. SPEAKER:

Are there further remarks on the bill?

JOHN D. MAHANEY, 92nd District:

Mr. Speaker, I rise to support this bill also. I, initially, hadn't intended to speak on this subject but I feel that I owe a duty to those citizens of this state who may be unfortunate enough in the future to find themselves accused of a homicide. I have served on at least three grand juries that I know of, that I recall, I should say. And I have served in the capacity as foreman of one of these grand juries. In all three cases capital crimes were involved. And I submit to this Assembly, unless you've been there, you have no idea of what goes on in a grand jury room. And I submit to you, as one who has served in the capacity of the grand jury...a grand juror...that it's a farce. People are summoned by a sheriff's notice and told to appear in court on such and such a date, at such and such a time because they are summoned to

Thursday, May 6, 1971

64.

MBS

duty as a grand juror. They are brought into the court room and are given by the presiding judge a rather involved and intricate charge on homicide and all facets of murder, as we know them in this state. Murder One, Murder Two, Manslaughter and Homicide. This, in and of itself, is confusing, I can assure you. It's confusing even having been trained in the field of criminal law in law school. At that juncture, the grand jury is then led to the room where they are instructed to elect from amongst themselves a foreman. The state's attorney is not present in the grand jury room. The foreman, who is elected by the other members of the grand jury, acts as the prosecuting attorney, if you will. He is the one who is presented with the duty and the function of presenting the evidence against the accused. Now mind you, the foreman of the grand jury knows absolutely nothing about the charge other than what he's briefly told in court that it is a homicide matter. All of the evidence that's brought in is brought in from the state's attorney's office through the offices of the county detective. The list of witnesses that are to be called is presented for the first time to the grand juror, presiding grand juror by the state's attorney's office. The court is careful in its admonition to the grand jury in its charge that their function is not to find guilt or innocence. That is not what their duty is. Their duty is to find whether or not probably cause exists for them to return a true bill. Either

Thursday, May 6, 1971

65.

MBS

of Murder One or Murder Two or Manslaughter. The accused is also brought into the room and sits in the presence of a grand jury while the witnesses are interrogated. I want to assure you people here today that if you don't think the person who is accused of a homicide is in a mental and physical and emotionally distraught condition, then you are kidding yourself because in most instances these people, who are accused, have, in fact, committed some type of capital crime. They are completely drained of all semblance or normal rationality in many cases. And it is pathetic to watch them sit there totally unrepresented while the machinery grinds forward that could ultimately result in their being deprived of their life, if not of their liberty. I submit to you, if there is any juncture in a criminal proceeding of this nature, involving a capital crime, that an individual needs, and should have representation, it is at this level. The initial level and I submit this is a good bill. The amendment makes it a better bill and we should pass it.

MR. SPEAKER:

Are there further remarks?

JOHN A. CARROZZELLA, 81st District:

Mr. Speaker, I, too, rise in support of this bill. I think after we listened to Rep. Mahaney's description of what a grand jury really is, I think we can say it is akin to a star-chamber proceedings in secret. And certainly the individ-

Thursday, May 6, 1971

66.

MBS

ual who is accused of a homicide is going through a terrifying and frightening experience as pointed out by Rep. Oliver.

This bill, in no way, is going to limit the effectiveness of the grand jury. As a matter of fact, it will probably make it a more orderly proceedings so that justice can ultimately be done. This is the beginning of the accusatory stage, this man is entitled to an attorney, to counsel, to advise him of his rights. I submit it is a good bill.

MR. SPEAKER:

Are there further remarks?

ROBERT D. KING, 48th District:

Mr. Speaker, I rise in opposition to the bill, as amended. I think it is very easy, and I find myself swayed to some extent by the rhetoric we have had from the other side today. I should not say other side, Mr. Speaker, because I don't think this is a political issue but nevertheless some very fine, and albeit, persuasive rhetoric has come from that side of the house. As they say, it is very easy to be persuaded by this, particularly if we are inclined to overlook the historic function of the grand jury and particularly what follows a grand jury indictment. Historically, the grand jury is a fact-finding body, not legally trained, and purposely not legally trained in order to determine whether the charge as brought does have a semblance of fact, sufficient fact, so that the matter ought to be tried. Ought to be referred to

Thursday, May 6, 1971

67.

MBS

the court for trial. I would not like to stand here, Mr. Speaker, and say that the grand jury, by standards of the legal profession, gives every last iota of protection, at that point, to the accused. But I don't think that was ever the concept of the grand jury and I don't think it should be the concept of the grand jury today. But I can tell you what will be worse...if you permit every accused to have in the grand jury room with him his attorney you are going to dry up the source of facts that otherwise would be available and despite the high calibre of the legal profession, when a man is paid to represent his client, whether it be in the grand jury room, or elsewhere, he's going to do everything he can to prevent a conclusion being reached which is detrimental to his client's interest. And, Mr. Speaker, if you permit, in my opinion, counsels in the jury room with the accused, you are going to turn the procedure into an abstraction session in which the historic function of the grand jury is going to be defeated. I cannot see, Mr. Speaker, that there has been an substantial harm, or there is any substantial harm, being done to the accused. Following the grand jury, he is exposed to trial, with all the protection that our legal system affords. I can only say, and I don't have the statistics that are available, but from my own observation that the correlation of convictions by court trial, compared with indictments by a grand jury is very high. Now, I think that says something about the

Thursday, May 6, 1971

68.

MBS

efficiency of the grand jury system, imperfect though it may be. I think, in this case, Mr. Speaker, that we should vote with history.'

LOUIS S. VOTTO, 116th District:

Mr. Speaker, I rise in support of this bill. Rep. Mahaney, I think, has pretty clearly covered the procedure. Just amplifying a bit some of the key remarks that he has made. Let us not forget that generally speaking the foreman of the grand jury, that is asking the questions, from information supplied by the state's attorney's office, will, more likely than not, in more than nine out of ten times, be an attorney. In this case, therefore, you will an attorney asking the questions from information supplied by the county detective's office. The foreman is trained in the law. He doesn't have to prove, beyond a reasonable doubt, that the person is convicted of a crime. Now, let me say this, as Mr. Cassidento said, and others, if you ever had this experience of representing a defendant, and I had it, in my capacity as a public defender, to take the safe way out, and you advise, generally, your client, as Rep. Cassidento said, question by question. The only thing this bill does, despite maybe the misunderstanding of some, is to permit the accused lawyer, or basically, at this point, the man isn't even accused, remember that, he isn't even accused, to permit his lawyer to be present and listen, and, at this point, this bill does not

Thursday, May 6, 1971

69.

MBS

permit the lawyer to cross-examine that material which the foreman of the grand jury is interrogating upon. It only allows a lawyer to be present with the accused and remember, in Connecticut, I want to emphasize this, that you are only talking capital cases. Let's say this, it's a matter of practicality, ladies and gentlemen. One man that is a suspect, speaking in terms of obstructionness, is a suspect at the time he is brought into a grand jury that doesn't have a lawyer. So what difference does it make if the lawyer is out in the hall or sitting present at the time the information and interrogation is being presented. And remember the final thing, in Connecticut, the transcripts are destroyed. So what a witness may testify to in the grand jury may be different at a time of a trial, if an indictment is made. We have gone a long way in the law and let me point this out, our Supreme Court has said that when a man reaches the accusatorial stage in a felony, which may not necessarily be a capital-type crime, at the police station he's entitled to an attorney. And at this day and age, I can't understand, for the life of me, why he wouldn't be entitled to an attorney when he is sitting in a room, the ultimate result may be an indictment that charges him with either murder, in the first degree, second degree, where his entire life may be at stake. I think it's a good bill and it ought to pass.

HOWARD M. KLEBANOFF, 9th District:

Thursday, May 6, 1971

70.

MBS

Mr. Speaker, I, too, rise for lawyer's day here. But I rise in support of this bill. Yes, I think to oppose this bill is to continue a farce. It has been pointed out by too many people here to repeat in detail the farce that actually exists. And you think of a situation where a person is asked a question, excuses himself from a room, goes out of a room, consults with his attorney, goes back in, answers the question, is asked another question, excuses himself from the room, walks out, adinfinitum. Also since the transcript is destroyed, most attorneys would tell their client to come back out and tell us what you answered. Now, as was stated, if we've extended our law, and we have, that a person is entitled to a lawyer, at the moment of arrest, we must remember that this person is accused and that this is not a fact-finding body. It may idealistically be considered a fact-finding body but the state's attorney is pushing for an indictment. He is pushing strongly for an indictment. Otherwise he would not have called for a grand jury. And this man's life and liberty is at stake and certainly he's entitled to counsel.

DAVID J. SULLIVAN, JR., 130th District:

Mr. Speaker, I'm afraid, at least in my opinion, that we are beginning to look at this question completely out of its proper perspective. I would strongly take issue with the implication that seems to have come from the previous speaker that the state's attorney is doing something wrong. We've

Thursday, May 6, 1971

71.

MBS

got to remember that the state's attorney, in each particular county, is our representative and when he is pursuing one of these indictments, he's protecting you and me and our wives and our children and our families. He's pursuing the duty that has been given to him by the state of Connecticut. Now, I'm surprised to hear some of the brothers at the bar say that this procedure is exactly the same as when an individual is brought into a police station because if you piece together what's been said here today, and you listen to the arguments you should understand that if a man is brought into a police station, and he gives a statement to a police officer, he has been made aware of his constitutional rights, there is a possibility that that statement can be used against him some-time later. This is not the case in a grand jury proceedings. I also think that we ought to be very clear and understand that the foreman of a grand jury is not a representative of the state's attorney. The foreman of a grand jury is simply performing a duty to determine whether or not a true bill should be returned. And all of us know there are instances when true bills are not returned. When they don't feel there is sufficient evidence and the grand jury is discharged. We've had this system from the beginning in the State of Connecticut. It has worked well. Now, we are starting to tinker with something, piecemeal, what Mr. Bingham said earlier was very correct. If we are going to start changing

Thursday, May 6, 1971

72.

MBS

or tinkering with the grand jury system it ought to be after a complete study. Are we going to have a system now where someone on the grand jury is going to run out and ask questions of the state's attorney? We shouldn't do it in any piecemeal fashion. We've had the grand jury also equated today with a star-chamber proceedings but frankly, I'm surprised that the distinguished co-chairman of the Judiciary Committee would equate a grand jury proceedings with a star-chamber proceedings because historically, a star-chamber proceeding was something that was actually a trial, that resulted in a conviction without any open coverage, the whole thing was done in secrecy. The grand jury, itself, is strictly investigatory to find out whether or not there is, in fact, reason to bring an indictment. I don't think that we should equate those two methods, here today, when we are discussing this bill. I urge rejection of the bill.

MR. SPEAKER:

Will you remark further?

FRANCIS J. COLLINS, 165th District:

Mr. Speaker, I think that throughout the debate that we've heard so far in the last half hour on this particular bill, there's been a confusion in function of the grand jury as pronounced by several of the speakers. A grand jury is not a trial. The grand jury's function, contrary to what Rep. Klebanoff stated, is a fact-finding function. It is one

Thursday, May 6, 1971 73.

MBS

to determine whether or not probably cause exists and whether or not an indictment or any further action will be taken based on the facts found by the grand jury. An essential element of this fact-finding, or evidence-gathering body is secrecy. And I submit to you, Mr. Speaker, that the state is not represented in grand jury proceedings, the state's attorney is not present, I submit that there is no constitutional right to counsel in a grand jury proceeding. As a matter of fact, the Supreme Court of this state has ruled that the constitutional right to counsel does not apply to grand jury proceedings.

Further, Mr. Speaker, rules of evidence in a grand jury proceedings are not followed. Among other things hearsay evidence is admissible and this follows right along with the fact that this is a evidence-gathering body. If we allow all witnesses in a grand jury proceeding to have their attorneys present, this could be potentially disruptive of the entire evidence-gathering system that we now know under our grand juries. Innocence or guilt is not the objective of a grand jury proceeding. It is not a trial. I think that we are all concerned, lawyers or non-lawyers about making sure that any accused has the benefit of counsel in any matter where he is an accused or where his rights will be substantially impaired. I submit to you, Mr. Speaker, it is necessary to maintain the balance in our judicial system

Thursday, May 6, 1971

74.

MBS

that the grand jury now provides. I would further indicate that a similar bill to this passed in the 1969 session, was vetoed by Governor Dempsey and the veto was not overridden by this House and in his message of June 20, 1969 to the then Secretary of the State, Governor Dempsey indicated as follows: and I quote: "Instead it would extend the right to counsel to all witnesses in grand jury appearances. This bill would seriously weaken the effectiveness of the grand jury in criminal proceedings and consequently further hamper Connecticut's war on crime." I oppose the bill, Mr. Speaker.

CARL R. AJELLO, 118th District:

Mr. Speaker, rising in support of the bill, I would say that having heard some of the remarks about the nature and characteristics of grand juries...I've been a member of a grand jury, on several occasions...I don't really care to be any longer but in theory perhaps it is a pure investigatory technique and those doing the investigating are supposedly impartial with only the idea in mind of seeking out the truth. In practice, I submit, that it is quite a different thing. Now, our state's attorneys, by and large, and historically, are gentlemen of honor, capability and provide a very necessary function as one of the speakers said, in protecting all of us and in doing our work in bringing criminals to justice. They are, however, human beings, and, as such, as all prosecutors feel, and I've been a prosecutor, in a federal

Thursday, May 6, 1971

75.

MBS

system, and in a state system, as all prosecutors feel when they bring a case to court they want to win. And when they bring a case before a grand jury they want that grand jury to do what they think should be done in the first place. I'm not saying that they attempt to have every person held for first degree murder because that's not true. However, the grand juries that I have observed, and I suppose I can only speak with authority about those instances, have been rather carefully arranged to provide the correct foreman, with the correct attitude and it always seemed to me, so that he knew exactly where the whole thing was supposed to go. So that I think that when one likens it to a star-chamber inquiry, I think it is an apt simile.

I think that with what we have done in terms of providing counsel at the police station, at the first stage of interrogation, it is entirely logical and consistent to provide counsel at this juncture when substantial rights are involved and when a person's very liberty and life may be at stake. But moreover, I don't think that the adoption of this kind of bill will so seriously hamper the grand jury system so to make it unworkable.

MR. SPEAKER:

Will you remark further before I announce the final announcement on the roll call?

JOHN B. CASSIDENTO, 106th District:

Thursday, May 6, 1971

76.

MBS

Mr. Speaker, I wish to take issue with something Rep. King said, he indicated that a lawyer in the grand jury room would seriously disrupt it, that this lawyer would be taking advantage of the poor laymen on the grand jury. Well, it just so happens that I, too, sat once on a grand jury and I wish to report that half of the eighteen people on that grand jury were lawyers. I don't know if this is the usual makeup of a grand jury but from all the reports I've heard it is. So we have a situation where an accused would sit down with his counsel and there would be at least eight or nine other lawyers in the grand jury room, as part of the grand jury. I just don't think one lawyer would take advantage of our grand jury.

JAMES F. BINGHAM, 157th District:

Mr. Speaker, I'm glad Mr. Mahaney corrected an error of Mr. Oliver's by stating that state's attorneys are permitted in the grand jury. They are not. And I will quote from Long's case, which Mr. Oliver quoted incorrectly, "that you will permit the prisoner to put any questions to the witnesses but not to call any witnesses on your part and you will admit no counsel on the part of the state or other prisoners."

Now, Mr. Speaker, if we adopt this law, the conclusion is obvious in the next session of the General Assembly. The state's attorneys will want to come into the grand jury proceedings as a matter of right. And, Mr. Speaker, if you are going to allow defense counsel in grand jury proceedings how

Thursday, May 6, 1971

77.

MBS

can we deny the state's attorney the right to come into the grand jury proceedings. New York State has had this problem and it states in the code of criminal procedure of New York those persons allowed to be present in a grand jury proceeding are: (1) the district attorney, (2) a clerk, (3) a stenographer, (4) an interpreter. Mr. Speaker, the grand jury proceeding is not the trial of the action. It is not a star-chamber procedure. It is an investigation to find out if a crime has been committed. And, traditionally, the grand jury, Mr. Speaker, has protected the rights of the accused because they are not under the thumb of the district attorney, they are not under the thumb of the courts, they are their own sovereign body to protect the citizens of the state of Connecticut. This bill should be defeated, Mr. Speaker.

MR. SPEAKER:

Are there further remarks before I announce a final announcement on a roll call?

JOHN D. MAHANEY, 92nd District:

Mr. Speaker, in response to Rep. Bingham's observations, I say to him and to this Assembly, prepare an amendment and put it in and I'll vote for it. Let the state's attorney be present but let the accused have an attorney there also. Now, Rep. Votto pointed something out that I had overlooked which is the fact that in most cases, at least the three cases I served on, an attorney does, in fact, serve as the prosecuting

Thursday, May 6, 1971

78.

MBS

attorney in the grand jury room, presents the evidence, puts the questions to the witnesses and so forth. And it's true also that the accused, although they do not have to take the stand, they are told they do not have to, they do have a right to examine any witness and not in one case that I have served on, nor any that I have heard of has the accused ever availed himself of this right of cross examination of any of the witnesses because they sit there completely numb. And I submit that this, in and of itself, is sufficient reason for this body to adopt this legislation. I'm not swayed by the argument of historical precedence, not when it interferes with human rights.

ROBERT G. OLIVER, 104th District:

Mr. Speaker, speaking for the second time, and very briefly, the case, of Long's case in 1860 cited by Mr. Bingham is correct, it permitted the accused to be present at the grand jury and indicated the state's attorney would not be. But I respectfully refer Colonel Bingham to the case of the State against Kemp. In 126, Connecticut, that's page 60, in the year 1939, in which our Supreme Court stated that...the court that is, the court charging the grand jury, as Mr. Mahaney indicates it happens, may properly, in its discretion, charge the jury that it is entitled to the aid of the state's attorney and his assistance, if such is necessary. So, in fact, they can be present when the grand jury chooses to bring them in.

Thursday, May 6, 1971

79.

MBS

Mr. Speaker, this bill, in no way, pierces the veil of secrecy of the grand jury because that attorney would only be present when that particular witness was present. And the witness, no one denies, can go out and tell his attorney what he said between each question. It protects the rights of the witnesses and accused basically not to testify against themselves. I suggest, and respectfully submit, that it does protect the people of our state, both functions of the grand jury, to do justice as well as to facilitate ferreting out those who have committed capital crimes. I urge we pass this bill.

RICHARD B. EDWARDS, 155th District:

A question, Mr. Speaker, I'm caught in the crossfire of jurisprudence and being a layman, I hear the word accused and yet I also hear that the person who is called upon to testify is only testifying in a fact finding body and, as yet, has not been accused of anything because the facts have not rendered cause for making an accusation. Could somebody straighten me out on that?

BERNARD AVCOLLIE, 94th District:

Mr. Speaker, I think a reading of the bill particularly... I'm referring now to that section which is already law...the last sentence answers that gentleman's question and also puts to rest any feeling that this is merely a fact-finding session. If it's not a trial, it's the closest thing to it, Mr. Speaker, and if he is not the accused I don't know who is because the

Thursday, May 6, 1971

80.

MBS

language says, "No person shall be put to a plea or held for a trial for any crime the punishment of which may be death or be found against him for such crimes by a grand jury legally impaled and sworn." In other words, the man can't be brought to trial until the grand jury brings forth an indictment. That means he's, if not the accused, the sole potential accused. That means it's not a fact-finding mission, it is a mission that is necessary before he can be indicted and brought to trial. He is, in fact, the accused and it is, in fact, the closest thing to a trial that we have prior to a trial. It is a prerequisite and, as such, this gentleman is entitled to the full protection of the law and certainly is entitled to counsel.

MR. SPEAKER:

I'd remind the members that we've had nineteen separate speakers. Will you remark further before we announce the final roll call?

ALBERT PROVENZANO, 127th District:

Mr. Speaker, now that we've heard from all of the attorneys, maybe we, as laymen, should determine what they have said to us. They said that a state's attorney is not allowed to be present, they've also stated that an attorney, or counsel, for the defense is not allowed to be present. They've said that the recordings are destroyed so that none of the minutes are known by either the defendant, if there is

Thursday, May 6, 1971

81.

MBS

such, or counsel, or the state. It would seem to me then that this is a pretty balanced system. It seems to me that the balance and the scales of justice are just as they are. And to hamper and to change them would, in my opinion, change that balance of justice and the question has been asked, "what difference is it whether the attorney is present or not?" I think that is the crux of the problem. And that answer is, that if the attorney is present the attorney then is given a chance to build his case, a case which the state does not have an opportunity to do and so then you change the scale and you change the balance of justice. I think it is not a good bill and I think the system, at present, is a just one. We're not having a court case. A grand jury is to determine whether a crime has been committed or not and I think the system that we have presently is a good system and is one that we should retain. I don't think we should change it and change the scales of justice.

MR. SPEAKER:

I'll announce the roll call. Are there announcements or introductions during this period of time?

HOWARD KLEBANOFF, 9th District:

Mr. Speaker, I'd just like to remind members of the Education Committee, especially the sub-committee on higher education, that tomorrow at 10:30 we will be leaving to go to the University of Connecticut for a couple hours, and any people wishing to go if you would meet up in Room 408, we'll

Thursday, May 6, 1971

82.

MBS

happy to arrange transportation.

WILLIAM C. LEARY, 43rd District:

Mr. Speaker, an announcement, there will be an important Executive Session of the Judiciary Committee immediately following the session on Monday.

JAMES J. CLYNES, 27th District:

Mr. Speaker, I'd like to make an announcement. There will be an Executive Committee of the Finance Committee on Monday, at 12 Noon.

MR. SPEAKER:

Are there further announcements or introductions?

CARL R. AJELLO, 118th District:

Mr. Speaker, the Reapportionment Committee and the Reapportionment Commission, as the case may be, would like to remind all of the members to go to Room 102 before 5 o'clock today and cast their ballots, which they've been provided, on their opinion as to the future size of the House of Representatives. It would be most helpful to the Committee and the Commission if you would comply with their wishes and give us this indication.

MR. SPEAKER:

Are there further announcements or introductions?

ADDIO E. BONETTI, 175th District:

Mr. Speaker, if there are any Democratic legislators who are interested in discussing the income tax further, there

Thursday, May 6, 1971

83.

MBS

will be a meeting at 12 Noon, Monday, in the Judiciary Room. Also. Monday is the deadline for the second assessment of the Hawaiian Room. Please pay by Monday evening. Thank you.

MR. SPEAKER:

Are there further announcements or introductions? Will the members be seated and will the staff members come to the well of the House and we'll proceed with the vote. Will all the members please be seated? The machine will be opened. Has every member voted? Is your vote recorded in the fashion you wish? The machine will be locked and the Clerk will take a tally. The Clerk will announce the tally.

THE CLERK:

Total Number Voting		158
Necessary for Passage		80
Those voting Yea	86	
Those voting Nay	72	
Absent and not Voting	19	

MR. SPEAKER:

The bill is passed.

THE CLERK:

House Joint Resolution No. 188 Congratulating Dr. Michael J. Zazzaro on His Election as Democratic Town Chairman of the City of Hartford. Introduced by Mr. Kennelly of the 1st, Mr. Carragher of the 2nd, Mr. Motto of the 3rd...

MR. SPEAKER:

May I ask that the House stands at ease while those members returning to executive sessions of their committees

**H-117**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 10  
4344-4830**

Wednesday, June 2, 1971

111

djh

be doing this particular fact. I oppose the amendment and I oppose the bill and I would hope that the committee of disagreeing action would throw out the bill. Thank you.

THE DEPUTY SPEAKER:

Will you remark further on the motion for rejection of Senate "A"? If not, all those in favor of rejection of Senate "A" will indicate by saying aye. Opposed? Senate "A" is REJECTED. We now have a disagreeing action. The Chair would appoint a committee of compromise, the gentleman from the 171st, Rep. Reinhold, the gentleman from the 108th, Rep. Tacinelli, and the gentleman from the 150th, Rep. Frate.

MR. PRETE (114th):

Mr. Speaker, may we at this time take up three matters upon which there's agreement on both sides for reconsideration?

THE DEPUTY SPEAKER:

Please proceed.

MR. PRETE (114th):

Perhaps we can go on to another matter on the Calendar until we discuss it a little bit further. There seems to be a breakdown of communications.

THE DEPUTY SPEAKER:

On the motion to reconsider, the motion is to reconsider. We'll return to the call of the regular Calendar.

THE CLERK:

On page 30, from the committee on Judiciary, a Disagreeing Action, Calendar No. 651, H.B. No. 9023, An Act Providing the Right to Witnesses to Have Counsel in Grand Jury Appearances, as amended by House Amendment Schedule "A" and Senate Amendment Schedule "A".

MR. OLIVER (104th):

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill as amended by House "A" and Senate "B".

THE DEPUTY SPEAKER:

Question is on acceptance and passage as amended by House "A" and Senate "A".

MR. OLIVER (104th):

I beg your pardon, Senate "A". I move acceptance of Senate "A" and I would ask the Clerk not to read it. I will summarize.

THE DEPUTY SPEAKER:

Is there objection to the gentleman from the 104th summarizing Senate Amendment "A"?

MR. COLLINS (165th):

Yes, Mr. Speaker, I would like to see a copy of it before we proceed.

THE DEPUTY SPEAKER:

Will the Clerk please read Senate Amendment Schedule "A"?

MR. COLLINS (165th):

Could the--

THE DEPUTY SPEAKER:

Will the Clerk please read Senate Amendment Schedule "A"?

THE CLERK:

Senate Amendment Schedule "A" to H.B. No. 9023, File 907.

Strike out everything after the enacting clause and substitute in lieu thereof, the following: subsection c of section 54-47 of the 1969 Supplement to the General Statutes is repealed. The following is substituted

djh

in lieu thereof. Such inquiry shall be conducted in public or private as said court or chief court administrator orders. The attendance of witnesses and the production of documents at such inquiry may be compelled by subpoena signed by any official authorized to issue such process. If any witness properly summoned fails to appear or to produce any documents included in such subpoena, or if he fails to answer any proper question, the judge or referee conducting such inquiry may report the matter to the state's attorney for the county wherein the investigation is being conducted and such state's attorney may file a complaint setting forth the facts at any criminal session of the Superior Court of such county. The court shall thereupon issue a citation for such witness to appear before said court and show cause why he should not be punished as for a contempt and if after hearing the court finds that he failed to appear without due cause or failed to produce any documents properly to be presented to the judge or state referee conducting the investigation, or fail to answer any proper question in the course of such investigation, it may punish him as it might a witness failing to appear, produce a document properly to be considered and to answer a proper question before the court. Witnesses may be examined by the judge or by state referee conducting the inquiry, by the state's attorney or chief prosecuting attorney or by any other attorney or attorneys appointed by the court for such purpose. The official stenographer of such Superior or Circuit Court or his assistant shall record any testimony so taken and any such hearing a witness shall have a right to counsel and shall be informed of such right by the official conducting the inquiry. At the conclusion of such inquiry, the judge or referee conducting the same shall file with the court a report, and the court shall direct whether and to what extent such report shall be made available to the public or interested parties.

THE DEPUTY SPEAKER:

djh

Wednesday, June 2, 1971 114

The gentleman from the 114th. For what purpose does the gentleman rise?

MR. PRETE (114th):

Mr. Speaker, may I ask that this matter be passed temporarily. It's evidently a very very long amendment and it is not in the possession of the leadership, or of anybody for that matter. We'd like to have it passed temporarily so that copies of the amendment can be distributed.

THE DEPUTY SPEAKER:

The question is to pass this matter temporarily. The Chair would note that this amendment is quite extensive, does not appear in our files, apparently copies of the same were not available to the leadership, the matter will be passed temporarily.

THE CLERK:

Page 6 of the Calendar, third from the bottom, Calendar No. 538, substitute for H.B. No. 7938, An Act Concerning the Maximum Interest Rate on Open End Credit Plans.

MR. PRETE:

Mr. Speaker, may this matter be passed temporarily?

THE DEPUTY SPEAKER:

The matter will be passed temporarily.

THE CLERK:

Bottom of page 8, Calendar No. 1062, at the bottom of page 8, Calendar No. 1062, substitute for S.B. No. 937, An Act Concerning Connecticut Industrial Building Commission Loans to Industry.

MR. METTLER (96th):

Mr. Speaker, I move acceptance of the Joint Committee's favorable

djh

**H-120**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 13  
5555-6226**

Wednesday, June 9, 1971 87A.

is a conflict with the WIN program, which already makes it mandatory for all able-bodied people on Aid to Dependant Children to be covered under a work program or else lose their assistance, so that I think this is just a duplication, and I don't see any need for it.

EFH

MR. SPEAKER:

Further remarks on the Amendment. If not, all those in favor indicate by saying "aye". Opposed. Amendment "B" is defeated. The Clerk has a further Amendment. Does the gentleman wish to offer his other Amendment? The Clerk is in possession of two Amendments from Representative Camp.

HERBERT V. CAMP, JR.:

No, sir.

MR. SPEAKER:

Question's on acceptance and passage as amended by Senate Amendment Schedule "A" and House Amendment Schedule "A". Will you remark further. If not, all those in favor indicate by saying "aye". Opposed. The Bill is passed.

PETER W. GILLIES:

Mr. Speaker, on Page 18, Mr. Speaker, Calendar No. 0651.

THE CLERK:

Page 18, Calendar No. 0651, H.B. No. 9023, an Act providing the right to witnesses to have counsel in Grand Jury appearances. As amended by House Amendment Schedule "A" and Senate Amendment Schedule "A".

MR. SPEAKER:

The Chair recognizes Colonel Bingham on his way to the seat from the 157th District in Stamford.

Wednesday, June 9, 1971

88A.

JAMES F. BINGHAM:

Mr. Speaker, I move acceptance and passage of Senate Amendment Schedule "A".

MR. SPEAKER:

Will you remark on Senate "A".

JAMES F. BINGHAM:

Mr. Speaker, the Senate, in its wisdom, has provided that defendants may have a counsel and a one-man Grand Jury. As this body will recall, we passed a Bill which provided that defendants could have counsel and the traditional Grand Jury, which this side of the House opposed. It was passed to the Senate. The Senate provided for this Amendment. We do not affect the traditional Grand Jury. We are only affecting the one-man Grand Jury. The State's Attorneys of the State of Connecticut support this Amendment. Mr. Speaker, I urge its passage.

MR. SPEAKER:

Further remarks on Senate "A". If not, all those in favor indicate by saying "aye". Opposed. Senate "A" is adopted.

JAMES F. BINGHAM:

Mr. Speaker, the Amendment is the Bill. I urge passage of the Bill in concurrence with Senate Amendment Schedule "A".

MR. SPEAKER:

Question's on acceptance and passage as amended by House Amendment Schedule "A" and Senate Amendment Schedule "A". All those in favor indicate by saying "aye". Opposed. Was passed.

PETER W. GILLIES:

Mr. Speaker, on Page 18, Calendar No. 1031.

EFH

Wednesday, June 9, 1971 89A.

MR. SPEAKER:

EFH

The Clerk will call that Disagreeing Action. The Clerk has not called the Action.

THE CLERK:

Page 18, Calendar No. 1031, Substitute for H.B. No. 8505, an Act concerning inspection of consumer credit reports. As amended by House Amendment Schedule "A" and Senate Amendment Schedule "A".

ROY HENRY ERVIN:

Thank you, Mr. Speaker. I move adoption of Senate Schedule "A".

MR. SPEAKER:

Will you remark on Senate "A".

ROY HENRY ERVIN:

Yes. I will summarize it, Mr. Speaker. The Senate, I feel, has definitely improved our Bill, in that when we originally passed it in the House anytime someone applied for a credit card or credit from some sort of a store, before this credit could be given, the store, or agency, would have to tell the consumer that they were going to require a credit check on their credit status. The Senate Amendment merely states that only if your credit is rejected for some reason, then you have a right to know which credit agency did the rejection and why. This perfects the Bill, Mr. Speaker. I move its adoption.

MR. SPEAKER:

Further remarks on Senate "A". If not, all those in favor indicate by saying "aye". Opposed. Senate "A" is adopted.

**S-81  
CONNECTICUT  
GENERAL ASSEMBLY**

**SENATE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 6  
2436-2873**

May 28, 1971

9.

THE CHAIR:

The question is on passage of the bill as amended. Will you remark further? Senator Hammer.

SENATOR HAMMER:

Mr. President, I like this bill well enough. I am not rising to oppose it. But I would like to ask a question, of Senator Alfano. I've had quite a bitter complaint from one of my constituents. Which I think I ought to bring up. On the four year aspect. My constituent has written me and said what if a person dies? What if a person moves out of state after a year or two years. Do we get our money back? So I just wondered if the Committee addressed itself to this problem at all?

THE CHAIR:

Senator Alfano.

SENATOR ALFANO:

There is no provision in the bill for refunding any money in case a person leaves the state or dies. I assume that they pay for the motor vehicle license and they will lose whatever they have in it if they don't use it.

The four year aspect is really necessary because I am sure every driver does not want to be inconvenienced and go to a regional motor vehicle branch office and have the photograph taken every two years. I think the four year aspect was necessary. Results in increased costs, if a person doesn't use it for four the year period. But there was no other alternative.

THE CHAIR:

Will you remark further on the bill as amended? If not all those in favor of passage of the bill as amended signify by saying aye. AYE. Opposed nay? The ayes have it. The bill is passed.

THE CLERK:

Page 2, Cal. 364, File 907, Favorable report of the joint standing committee on Judiciary on H.B. 9023 An Act Providing the Right to Witnesses to Have Counsel in Grand Jury Appearances.

May 28, 1971

10.

The Clerk has an amendment.

THE CHAIR:

Senator Macauley.

SENATOR MACAULEY:

I move acceptance of the joint committee's favorable report and passage of the bill. Will the Clerk read the amendment.

THE CLERK:

Strike out everything after the enacting clause and substitute in lieu thereof the following: Sub. Section C. Sec. 54-47 of the 1969 Supplement to the General Statutes is repealed. The following is substituted in lieu thereof: Such inquiries shall be conducted in public or private as set forth or Chief Court Administrator orders. The attendance of witnesses and production of documents at inquiries may be compelled by subpoena, signed by any officials authorized to issue such process. Any witness properly summoned failed to appear or to produce any document including such subpoena, or if he fails to answer any proper question the Judge or Referee conducting such inquiry may report the matter to the State's Attorney for the County wherein the investigation is being conducted. Such State's Attorney may file a complaint setting forth the fact at any criminal session of the Superior Court in such County. The court shall thereupon issue a citation to such witness to appear before said court and show cause why he should not be punished as for a contempt, and if, after hearing, the Court finds that he failed to appear without due cause or failed to produce any document properly to be presented to the Judge or State Referee conducting the investigation or failed to answer a proper question in the course of such investigation, it may punish him as it might a witness failing to appear to produce a document properly to be considered. Or to answer a proper question before the Court. Witnesses may be examined by the Judge or State Referee conducting an inquiry. Or the State's Attorney or the Prosecuting Attorney or by any other

May 28, 1971

11

attorney or attorney's appointed by the Court for such purpose. The official stenographer of Superior or Circuit Court or his assistant shall record any testimony so taken. At any such hearing a witness shall have the right to counsel and shall be informed of such right by the official conducting the inquiry. The conclusion of such inquiry the Judge or Referee conducting the same shall file with the Court a report. The Court shall direct to what extent such report shall be made available to the public or interested parties. Any transcript of testimony taken at such inquiry shall likewise be filed with the Court and it shall have the same powers with reference to it as it has with reference to the report: provided any person accused of crime as a result of such inquiry shall have access at all reasonable times to the transcript of his own testimony given by him in such inquiry.

THE CHAIR:

Senator Macauley.

SENATOR MACAULEY:

Mr. President, members of the circle, this amendment I think was necessary because there was some confusion in Grand Jury understanding, in understanding the nature of the Grand Jury in Connecticut. There are two types of Grand Juries. One under Sec. 54-47 which is a Grand Jury to investigate crime, for instance we have one going in Fairfield County, which is investigating gambling and so forth. And this type of grand jury, the judge calls in witnesses, subpoenas witnesses and these are potential defenders. This type of Grand Jury, the witness usually had his attorney waiting for him right outside the door. When a question is propoerted to him, he goes outside the door and asks the attorney whether or not he can answer it. Then he comes back in and answers in accordance with what his attorney tells him. In this type of grand jury procedure, it would seem fair and just to have the attorney right in with the witnesses. The other type of Grand Jury which is 54-45, which was the way the Statute was

May 28, 1971

12.

, the bill here was originally drawn. Is a Grand Jury which is called in cases involving Capital and, or Life Imprisonment Term. This type of Grand Jury merely hears the evidence, its charged by the Court. It then is in a room alone, without the State's Attorney, without the sheriffs, without judge. The defendant is allowed in there but he is not permitted to be questioned. He is not allowed to give statements. He can ask the witnesses who are called in. He can ask them proper questions. The State's Attorney merely gives the Grand Jury a list of witnesses of people to be called in. In this type of situation, the accused or the defendant has no need of an attorney since he cannot ask questions and cannot make statements. The end result of the action of a Grand Jury in this type of case is a true bill which is no different as our Courts have stated, than an information issued by a State's Attorney if crimes involving lesser offenses. It can't be argued that defense attorney can sit in when the State's attorney draws an information in crimes of lesser cases. And the second type of Grand Jury, there really is no need for an attorney. Consequently the Amendment simply takes the language of the amendment that was appended to in the original bill in Sec. 4-5445 and puts it on to Sec. 54-47, which is the Statute relating to the Grand Jury which I first described, which makes investigations. Its a good bill. I think it ought to pass.

THE CHAIR:

The question is on passage of the amendment. Will you remark further? Senator Crafts.

SENATOR CRAFTS:

Mr. President, I don't believe any motion has been presented to adopt this amendment.

THE CHAIR:

Senator Macauley.

SENATOR MACAULEY:

I move the adoption of the amendment.

May 28, 1971

13.

THE CHAIR:

Will you remark further? If not all those in favor of passage of the amendment, signify by saying aye. AYE. Opposed nay? The ayes have it. The amendment is passed.

Although it is lengthy most of the languages of an existing Statute, in the effect of the amendment is to add the language of the bill in your file to another Section. Two numbers up in the enumeration. Otherwise identical. The Chair will rule that the amendment is technical. You may proceed on the bill as amended. Senator Macauley.

SENATOR MACAULEY:

I move passage of the bill. Mr. President, members of the circle. I move passage of the bill. I believe my previous remarks apply to the bill. And the amendment is the bill.

THE CHAIR:

Will you remark further? If not all those in favor of passage of the bill as amended signify by saying aye. Opposed Nay? The ayes have it. The bill is passed.

THE CLERK:

Page 6, Cal. 828, File 1194 Favorable report of the joint standing committee on Insurance and Real Estate. H.B. <sup>846</sup>~~864~~ An Act Concerning the Advertising, Sale, Exchange or Other Disposition of Certain Real Estate Being Offered as part of a Common Promotional Plan Within or Without the State. The Clerk has an amendment.

THE CHAIR:

Senator Dinielli.

SENATOR DINIELLI:

Mr. President, I move for acceptance of the joint committee's favorable report and passage of the bill as amended by House Amendment Sch. A. Will the Clerk please read the amendment.