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GOVERNMENT  
ADMINISTRATION  
& POLICY

1975

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GOVERNMENT ADMINISTRATION & POLICY

April 8, 1975  
10:00 A.M.

PRESIDING CHAIRMEN: Sen. Julianelle  
Rep. Dzialo

COMMITTEE MEMBERS PRESENT

SENATORS: Julianelle

REPRESENTATIVES: Dzialo, Menatto, Burke, Sayre, Moynihan, Mannion,  
Shea

HB 5087

SEN. JULIANELLE: I have a couple of brief announcements. My name is Senator Julianelle, Chairman. This is Representative Dzialo. If there are any conferences to take place or discussions, we would appreciate it if they would take place outside of the room, so as to not interrupt the proceedings.

We would also appreciate it if anyone has a proposed statement, rather than reading the entire statement, to just make a summary of the remarks and to submit the statement so it may be included in the record.

We will start with the Legislators first and then we will take the bills in the order as they are printed in the bulletin today. Representative Post.

REP. POST: Thank you, Mr. Chairman. Members of the Committee. I want to speak on the Proposed Sunshine Laws.

What a great opportunity we have if we are willing to take this step now. The time of the philosophy that government knows best for the people -- the time of government deciding behind closed doors what is best for the people-- the time of government imposing its solutions should be over.

The Sunshine Law is one of those rare opportunities we have to come back to some basic fundamentals, one of which is we are indeed a government of the people, that the veil of secrecy that falls frequently on public bodies...must fall.

Our current laws labeled right to know laws are hypocritical in that secretly they enable public agencies under the guise of holding open meetings to hold public hearings and then vote to go into executive session and then debate and decide what is best for the people. And it is my view that there are many who now feel that in the public, who perceive

that system to be one opposing out the public and to have developed such a strong cynical feeling about our government today at all levels.

In response to that is to open up that process and to adopt the Sunshine concept, which in simplistic terms merely suggests that we let the sunshine in, which means let's conduct our business openly. Let's open up the doors where decisions are made. Let's let the public understand what the issues are and how we debate them. Let's listen to the public and try to respond to their needs.

And of course, there is a risk. And anybody who pretends that the Sunshine Law is without risk is deceiving themselves. The risk is that we will be embarrassed. The risk is that the debates will be harder or more difficult. The risk is that it is easier to do business behind closed doors, but the real risk is that if we continue the current concept -- continue the current practice and close those doors, as is happening at all levels, that public cynicism will grow, and as we then really thrash over the tough issues of the day, we will not have the public support and understanding that we are going to need.

If we are willing to take the step and open up the doors, several things will follow.

One, the public press that represents us all -- the press that is the public but which in addition informs the public will not only have the legal right to print under the freedom of press, but will have access to the information which is absolutely essential if the public is to be informed as to what we are doing.

And it's that access which is frequently overlooked. We've talked about the freedom of the press and the right of the press to report. But it's the access to the information -- to attend those meetings -- listen to the debates -- understand what the real issues are -- that is essential so that the right of the free press can be meaningful.

Secondly, it will mean that the public who attends the public hearings isn't being turned away when the local agency or the state agency says thank you very much, but now we're going into executive session, which is what breeds that cynical attitude that we who are elected know what's best and can only conduct that business if we keep the public out of the deliberations.

And most importantly, if we do that, perhaps we can avert this slide towards general wide-spread cynicism and rebuild public confidence and trust in what we are doing.

I would like to suggest that in regard to the specific bill, very briefly,

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that the exceptions that are made for personnel are valid, because of the right of privacy, which we want to protect -- the exceptions that are made for government bodies to deliberate in preparations for later negotiations is valid, otherwise the negotiating process would be destroyed.

And that an exception to discuss public security measures is essential in order for the police to do their work effectively and that surely we can write a Sunshine Bill that is simpler than the Internal Revenue Code type of proposal, some of which we have before us.

The part of the Sunshine Law which is very open -- is also very simple. It's in about three paragraphs, and I would urge the committee to consider whether it isn't possible to set forth that simple concept in understandable terms rather than creating a complex document.

My hope is that we can get back some very basic and fundamental aspects of government and decisions and laws and opportunities for us to take a stand, which I think is right, which I hope you will, too.

I hope you will report it out of committee favorably.

Thank you.

SEN. JULIANELLE: Thank you. Any questions? Thank you. Senator Gunther. Representative Henderson.

REP. HENDERSON: Senator Julianelle, Representative Dzialo, Members of the Committee. I am here this morning not to speak for a bill which I have sponsored, but to speak for the concept of openness in government.

As Legislators we cannot mandate openness. We cannot legislate morality. We proved that with the Eighteenth Amendment of the Constitution. However, we can bring the people's business closer to the people by conducting legislative matters in open manner and allowing the Sunshine -- as it is, to shine in -- public knowledge upon all matters pertaining to the public's business.

I know that you will consider many of the bills that have been proposed. I know the administration has also introduced a very strong bill that would strengthen the right to know in public knowledge. I am sure that you will come up with a bill that will make us all proud that in this term of the Legislature, we have come up with a moderate bill that goes even beyond our neighboring states.

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New York is enacting a bill this term. Florida has a model Legislation and I believe Michigan is also enacting a bill this term.

I think Connecticut can come out with a bill that will strengthen our government on all levels in the State.

Thank you.

SEN. JULIANELLE: Representative Weigand.

REP. WEIGAND: Thank you, Senator Julianelle. Chairman Dzialo and Members of the Committee. My name is Joseph Weigand. I'm a State Representative from the Eighty-Third Assembly District in Meriden, and I do want to register in favor also of the philosophy of openness in government and register my support for Committee Bill No. 5087 and I want to leave with the committee a copy of an editorial which appeared in the Meriden Record today for an expression from our newspaper of their sentiment of this bill.

The publisher of the Meriden Record has for a long time strongly supported a stronger right to know law on the Connecticut Statutes, and I support 5087. I think it accomplishes that.

One thing that Representative Post was speaking to was the additional responsibility of those in government -- the debates may be harder -- the issues may be more difficult -- discussion may take longer.

I also want to point out that I think this also increases the duties and the responsibilities that is going to be placed on the media -- whether it be the newspaper media -- television or radio. That accurate honest reporting not a representation of philosophy or belief -- but if that information is heard at the expanded open meetings, all aspects -- the arguments -- the reasons for the arguments and the sentiments -- I think it is going to take a new slant of reporting and relating the news so that the public does truly get an expression of what the public business is and not an expression of what the media interpretation of those public expressions are.

So I think this is a large step for government to take -- in the direction of openness and I think not only is the responsibility and duties of public servants expanded, but the media as well.

I support this bill. Thank you very much.

SEN. JULIANELLE: Representative Stevens.

REP. STEVENS: Thank you, Senator. Mr. Chairman. Members of the Committee. My name

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is Gerald Stevens and I represent the 119th District of Milford in the General Assembly and I also serve here as Republican Minority Leader in the House.

I am here today in full support of the so-called Sunshine Laws, which you have before you today.

I think 1975 is the time when we should complete a process which those of us in the Assembly began several years ago -- opening up state government and also local government in this state.

In 1973, as you know, we adopted roll call vote in the House on all issues, which I think is one of the significant steps toward open government. We opened all the committees and this years bi-partisan rule required roll call votes in committees.

It appears to me that the adoption of the Sunshine Laws are a natural extension of this process which we in Hartford have begun, and one whose time certainly has come.

I will support the remarks of Representative Post and just add a few. I think the Sunshine Laws further most importantly, because of the people who elect us and other officials at the local level of knowing what we are doing for them and many times what we are doing to them.

I think too often people in government forget that we're here to represent not to rule, and by opening up the process of government through strong Sunshine Laws, that can be enforced. And I think that's the key.

A Sunshine Law is not one which can be enforced and be effective -- it's meaningless. So the one we adopt this year must in my opinion, be enforceable, and I think it will be well accepted at both the local and state level of government, and I think it will receive bipartisan support in this Legislature and that certainly is the way it should be because open government is not a partisan issue.

I think it's time has come and would urge the committee to act favorably upon these bills.

Thank you for the opportunity to appear here this morning.

SEN. JULIANELLE: Thank you. Any other Legislators? Okay. Then we will proceed to the public portion.

Senate Bill 530, AN ACT CONCERNING THE RECORDING OF PUBLIC MEETINGS.  
Anyone wish to speak on that bill?

Senate Bill No. 1268, which includes Senate Bill 509, 42, House Bill 8033 and Senate Bill 1115, AN ACT CONCERNING MEETINGS AND EXECUTIVE SESSIONS OF PUBLIC BOARDS AND COMMISSIONS.  
Anyone wish to speak on that bill?

BARBARA SACKS: I am Barbara Sacks of West Hartford speaking for the League of Women Voters of Connecticut.

The committee is considering today four comprehensive bills revising Connecticut's policy on open meetings, availability of public records and the public's right to know. 1268 is one of these bills.

I would first like to observe that testifying on these bills has been made a little difficult. We talk about the right to know. By the unavailability of three of them until noon on Monday. At that hour I received copies hot off the Xerox machine, from a member of the committee staff. And it seems that some improvement in the system of making bills available is clearly necessary. I'm sure this is not news to you.

The League of Women Voters, as one of its basic principles, believes that democratic government depends upon the informed and active participation of its citizens and requires that governmental bodies protect the citizens right to know by giving adequate notice of proposed actions, holding open meetings and making public records accessible.

Based on this declaration and speaking for the League of Women Voters of Connecticut, I would like to support the concept of improved freedom of information embodied in Committee Bill 41, Committee Bill 1268, Committee Bill 5087 and Committee Bill 5463.

The League, at its various levels of activity -- national, state and local, has organized corps of observers, who attend meetings of various public agencies. In this way do we inform ourselves and the public generally about the activities of those agencies, both in terms of content and in terms of the procedures of their meetings.

In communities across the state, and indeed the nation, our observers attend and report on hundreds of meetings each week. Occasionally, it is a struggle -- to get notice of meetings, to gain entry, to be free of harrassment when taking notes, to obtain agendas and minutes. Thus we support the efforts of this General Assembly to ensure freedom of information.

To the bills -- The declaration of legislative intent contained in Section 1 of Committee Bill 41, 1268 and 5463 is useful in establish-

ing without question the framework in which subsequent provisions are to be read. We are glad to see this declaration.

We are also pleased to see that "person" is defined in these bills to include natural person, partnership, corporation, association, or society. League is not included in the list, but, like other public interest groups, we would appear to qualify as a person.

We certainly hope to so qualify -- for purposes of access to public meetings and access to public records. But most especially do we hope to be so considered for purposes of access to the grievance procedures of the Freedom of Information Commission or the Public Records Review Commission.

Without access to the Commission, and to the appeal therefrom to the Court of Common Pleas, our position would be greatly weakened. We ask that you ensure that such access is indeed available to us.

There are a number of ways in which to distinguish these four bills, most of which relate to the reasons for executive session or the types of records which need not be disclosed. It is difficult for the League to comment on the reasonableness of these differences. It does appear however, that the penalties provided in Committee Bill 5087, also in Section 18 and all conforming to the Penal Code, are the more easily understood. The other bills create new penalties.

For instance, maximums of \$5000 fine and three months imprisonment for willful destruction or mutilation of a public record, and scatter these penalties throughout the bills.

One also wonders why in Committee Bills 41, 1268 and 5463 the Public Records Review Commission, a quasi-judicial agency, essentially administrative agency -- is empowered to assess fines up to five hundred dollars and costs for certain violations.

In Committee Bill 5087, by contrast, the Commission may only issue an order. What is needed here, and what is appropriate?

Finally, on behalf of our many members who serve on public agencies --boards and commissions of all kinds, in our towns and in our state-- as well as of other such volunteers, we would question the wisdom of imposing a possible one thousand dollar fine and six month imprisonment for attendance by an agency member at a meeting "not held in accordance with the provisions of this Act." The quote is from 5087, Section 18.

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Not knowing attendance at an improperly held meeting -- just any attendance at an improperly held meeting. You pose very grave risks to this army of volunteer public officials, one in fact said recently, "They'll have to pay me to take risks like that."

True, there may be problems, but they can be solved. On balance, these bills represent a very considerable improvement in right-to-know legislation, and the League is pleased to urge your favorable action in this area.

SEN. JULIANELLE. Thank you. Any questions? Thank you very much. One brief comment. The fact of drafts not being available for public hearings is something that was said not only to this committee but to many of the committees of the General Assembly.

Representative Dzialo and I have discussed this and we intend to have an interim committee study possible rules changes within the government structure to see if this can be remedied. Staffing may be necessary. Something has to be straightened out because we, as committee members ourselves, haven't even had full drafts prior to hearing dates in many instances. Yes, sir?

MILTON SOROKIN: Mr. Chairman, my name is Milton Sorokin. I'm an attorney in Hartford, Connecticut. I share Mrs. Saxe's views regarding the availability of the law -- the proposed statutes. Unfortunately, she was more successful than I in obtaining copies so if you will permit me, I will have to talk in more general terms than I might otherwise like to do.

My interest in the right to know, or as Mr. Post -- the Sunshine Laws -- is on a variety of levels, as a citizen of the State of Connecticut, as an attorney and finally on a more intimate level, as the litigator of Connecticut's most recent and perhaps most important right to know case. That is the case that Judge Howard Alcorn heard and it involved the Journal Publishing Company and the Town of Enfield.

Judge Alcorn in that case highlighted a number of the significant problems that some of this legislation seems to be dealing with.

He indicated clearly that public knowledge of discussions and considerations upon which the action of governmental agencies is based is essential to the democratic process. And that's his quote.

He rejected the English common law view that there was no public right to attend meetings of public bodies, and instead ruled that the knowledge of the reasons for governmental action is an essential element to intelligent consent of the governed.

Any bill you enact should include in its preamble a clear statement of the rights of the public to attend public meetings and the need for public exposure of the reasons, the considerations and differences which are elements in any final action of public bodies.

Judge Alcorn's decision also makes clear that the present Connecticut Right To Know statute, essentially Section 1-21, does not apply to legislative bodies. Although other law, Section 119 of the Connecticut various Charters, requires that all votes of legislative bodies be recorded and minutes kept, there is no requirement though that all legislative bodies must meet in public or at least be subject to the established Right to Know procedure for executive sessions.

In the seat of the development of the concept of public participation in the governmental process through attendance at meetings, the failure to require that all legislative bodies must be open to attendance by the public is a serious omission.

It is very plain to see that that is included in a number of the bills that we've had access to.

We urge that any bill that you adopt must apply the Right to Know provisions to legislative as well as administrative and executive bodies. A great deal of the legislation adopted in Connecticut stems from various local governmental bodies and the unequivocal right to attend meetings of such bodies, including legislative bodies is essential.

The gatherings of public bodies whether called conferences, work sessions as they sometimes have been called -- or informal discussion groups are meetings and must be open to the public unless a public vote is taken and a majority present vote to exclude the public.

Again, Judge Alcorn's decision decreed that there could be no closed or executive sessions of such public bodies without a statement on the public record as to each such barring of the public and each members position.

Still there are problems with the bills -- the laws that are presently on the statutes. And we suggest that any bill you enact must make it clear that all public meetings are covered. Not just some of them.

Presently public bodies subject to the Right to Know law have discretion to exclude the public from their meetings after proper vote, and Judge Alcorn ruled that such discretion must be reasonably exercised.

Any bill your committee recommends should strictly limit the areas of

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secrecy over which public bodies have discretion. The unique policy on which this nation and New England was based -- of open public meetings -- must be strongly maintained.

With the complexities of modern life has come a creeping shroud of secrecy in local and state governments. But the issues which confronted Connecticut in the colonial years before the Revolution are no different in character than those which face Connecticut today -- land transactions, hiring of personnel, school teachers and school masters, selection of professionals -- architects or surveyors, etc.

The electorate is the source of governmental power and the mere act of delegating the power to elected representatives cannot and does not preclude the electors from observing and having full access to the activities, deliberations and debates which comprise the exercise of governmental power.

It is in this spirit, and for these goals, which I urge you to enlarge the Right to Know legislation of the State of Connecticut. I urge you to do this in at least five categories.

One is to include the legislators activities of governmental bodies on all levels.

Two, to be sure that the meetings definition is clearly -- specifies that there is no way in which a meeting can be called something which it is not. Meetings are meetings whether they call them informal sessions -- whether they meet over coffee or what have you they are going to conduct the business of government.

Thirdly, we believe there should be a strict definition of the items to be taken up in executive session. I am pleased to see that at least in one of the bills there appears to be -- an attempt is being made at that.

We believe there should be a strict requirement to keep minutes, votes --and that there be a strict requirement regarding access to those matters.

And finally, the penalty provisions are very important. It is still possible for people to distort the laws no matter how you attempt to define them.

I will give you an example of a town, which really should remain nameless, a town in which there was a complaint to a body regarding a certain matter, and the body had an executive session. And they voted to

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terminate the complaint in some fashion. On the advice of counsel, the town determined that since the matter involved the possible reputation of an individual -- we don't know whether it did or not because we don't know what the complaint was about -- it did not have to be disclosed or the activities of the Commission which met in secret session -- have to be disclosed.

The reason is that supposedly 1-19 covers matters which--there are certain exceptions in that 1-19 which do not have to be disclosed as a matter of public record. It was then -- the feeling goes, that since it did not have to be disclosed under 1-19 therefore the Commission which met to consider that did not have to disclose what it did, how it voted, when it voted, or what it took up.

Even though it is possible under 1-19 of course, that they didn't have to disclose the specific item itself. But through a distortion, at least in my opinion, a gross distortion, it was possible for someone at least to give the opinion that that was a proper activity.

I suggest to you that if there were penalties in the statute, that this would be less likely to occur. I don't mean a penalty where you have to send people to Danbury for twenty years, but there should be some compelling penalty making sure that the law will be abided by, and I think that the penalty that is set forth in two of the laws which I saw -- and that is those who participate--if they participate in an illegal activity contrary to the law, that you will find far more compliance with the laws than we have today.

I thank you very much for giving me your time.

SEN. JULIANELLE: Thank you.

MARTIN BURKE: One question, Mr. Chairman. Mr. Sorokin, would you suggest to us the areas that you would want to make provision for executive session? I think you indicated about strictly limited ... Do you have any thoughts on what--

MILTON SOROKIN: I think that the areas suggested by Mrs. Saxe when she was reviewing one of the bills are areas that I feel more comfortable with. I feel that you have to be very careful and not put in such a broad definition of what can be taken up as to permit the executive session then to take up anything it wants to.

But it should be some place, and it should be at least at some point, some place where you can know what your people have done and what they base their decisions on. I think the idea of the investigative process

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on criminal conduct involving a citizen or an administrative official . or an elected official -- there should be a degree of secrecy to some of that.

But that doesn't mean that there shouldn't be minutes kept and votes taken and people know what's going on. That's more critical to me --what goes on, then what they take up. We have to know at some point what they're taking up. We have to know when they meet in executive session what is it that they're going to concern themselves with.

You will find if you investigate this field that that is not the way most of the governmental bodies operate. They just go into executive session. As in Enfield, in the case we had -- they went into Executive Session any time they had something called a legal matter. And in the trial, no one really knew what the legal matters knew.

Now, I don't suggest that Enfield was being improper or anyone was trying to do anything improper, but it was a means by which they did go into executive session, but no one knew what it was, and I think that if we had the bill defining the areas in which they can go in as well as stating that once they go into executive session they must say why and what it is they are going to take up in executive session and that should be the limit to which the executive session concerns itself.

REP. BURKE: So your position is to keep the rule on executive session very similar to what it is right now but make them explain why, rather than say, that's ...such as in Bill 5087.

MILTON SOROKIN: No, I think there should be a limitation of what they could take up in executive session coupled with a requirement that when they go into executive session they say what they're going to take up.

SEN. JULIANELLE: Any other questions? Thank you. Will you leave a copy of your statement for the record?

MILTON SOROKIN: Yes. I will provide a copy. Thank you.

SEN. JULIANELLE: Mr. Morotek.

RYSZARD S. MOROTEK: Mr. Chairman, I would like to speak on the open meetings provision of the bill. Specifically-- yes, specifically as it relates to Connecticut judiciary.

My name is Ryszard Morotek. I'm a Connecticut resident and an attorney practicing in the City of Hartford.

In addition to public and professional concern I have a special personal interest in the right to know legislation in that in 1966 and 1967 I was the first litigant under the right to know law, again involving the Connecticut Judiciary, and what I have hereto offer to this committee may be somewhat surprising.

I would like to eliminate any questions or mistakes, I would like to read a sort document into the records. The document concerns the Secretary of the States Office. "I, Harry Hammer, Deputy Secretary of the State of Connecticut and Keeper of the Seal thereof, do hereby certify that a careful examination of the files of this office fails to reveal that any board, commission, agency bureau, committee or any other body of the Judiciary branch of government of the State of Connecticut has filed a schedule of regular meetings notice of special meetings, records of votes of the members upon issues before the committee, records of votes relative to executive session, or records of minutes of sessions whether executive or open in accordance with Section 1-21 of the Connecticut General Statutes,"and this is dated April 4, 1975.

Gentlemen, I understand this to mean is that for the past seven years one third of the Connecticut government, the Judiciary branch of government, has inadvertently or otherwise, violated the requirements of Section 1-21 of the statutes requiring not only open meetings but filing registration of schedules of these meetings. Now, in view of this has been done I don't wish to go into the questions whether the statute is subject to interpretation whether it appears to the Judiciary branch of government or not, I believe it does.

I believe that this legislature intended all operations of the Connecticut government to be open to the public when it meets. I would, therefore, urge this committee to adopt a very clear definition of a public body to make sure that it applies to the Judiciary as well.

For example, as defined in this bill, public agency means any executive, administrative, legislative or judiciary office or body.

I further urge this committee to recommend that the Judiciary branch of Connecticut government also list its own individual committees. I am trying to find out exactly how the Judiciary branch of government is being administered and none of its committees are listed in the Connecticut State Register and Manual, for example.

Only the office of Executive Director is listed, only the Office of Judiciary Review Council is listed, but in addition to that there are no other committees -- for example, the Rules Committee that has written the Connecticut Practice Book is not listed anywhere.

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There are joint committees between the different courts -- these committees are composed of Judges and nobody really knows when they meet, but members of these committees, and what these committees do.

I believe that the Judiciary branch of government as the Executive or the legislative could only benefit from public participation in the administration of the Judicial system. I believe that building a wall of China around the Connecticut Judiciary can only serve to retard the effectiveness of the administration of justice.

For the past two hundred years the Judiciary branch of Connecticut government has operated behind closed doors. I urge to this committee to make every effort to allow some sunshine in.

SEN. JULIANELLE: Do you have any opinion or background as to whether or not the legislature can impose these rules on the Judiciary which is a people branch of government?

MR. MROTEK: Yes, as a matter of fact. The Legislature creates the courts except the Superior Court, which is the court of residual jurisdiction because it derives its powers from the colonial times from the Constitution.

All other courts have been created by the Legislature and all administrative offices of the Judicial branch of government including the Office of the court administrator and the Executive Secretary, etc., have been created by the Legislature. Yes, indeed. I believe that one branch of government can establish rules for the other.

Thank you.

REP. BURKE: Mr. Mrotek. One question. I would seriously like you to explain to us if you thought about it, the problem to extend the right to know law to the Judiciary what happens when one man Grand Jury, Grand Juries, Trial Juries, deliberations say of the Supreme Court, when they are deciding the case?

One, doesn't this create a problem, and secondly, what purpose really does this serve by having these deliberations in public?

MR. MROTEK: I believe that these deliberations not only should be secret but that they must be secret under the present law. The present law reads that unless otherwise provided by state or federal law.

REP. BURKE: Oh. I understand they are secret now, but you are proposing that we cover the Judicial branch under the freedom of information law. How

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far do you want to go with that? What areas of the Judiciary would be covered if not the Grand Jury and the Trial Jury?

MR. MROTEK: I have absolutely no intention of suggesting that Grand Jury proceedings be ever open. What I meant was that the freedom of information act should extend to the administration of the Judiciary.

That the meetings deciding the rules for the courts, the rules of practice, the administrative procedures for the judiciary, for example, computerizing certain information, judicial administration, not the actual adjudication of human rights. I think for this we have sufficient rules. It's the administration of the Judicial branch of government.

REP. BURKE: Well, how would you propose to define this because one of these bills, for instance, says public agency is an executive, administrative, legislative or judicial office or body, and that is all that is said. Well, a Grand Jury is a judicial body.

MR. MROTEK: I believe the Grand Jury would be excepted under the five exceptions in Bill No. 5463 and Bill No. 1268, 4150, 463. I believe the Grand Jury would actually be excluded.

However, since you mention the topic, I truly believe that it is necessary that the citizens commission be called into being so that it can first screen the complaints particularly if the complaints are against the judiciary branch of government.

What we have today is one branch of government essentially the decider of the complaint that may be against it, and up until now even though there were several attempts in the courts to obtain the records of the Bar Examining Committee, for example, clearly a state body, clearly a part of the judicial branch of government, the courts to this date did not allow any disclosure of records whatever and the first attempt under the right to know law was made several years ago.

SEN. JULIANELLE: Thank you.

MR. MROTEK: Thank you.

SEN. JULIANELLE: Yes, ma'am.

MRS. BUTTERWORTH: Senator Julianelle and Representative Dzialo, I would like to second what Mrs. Saxe said about the lateness of the bills.

SEN. JULIANELLE: Would you state your name, please?

MRS. BUTTERWORTH: Mrs. Carol Ann Butterworth, and I am a member of the Legislative

Committee of the Connecticut Association of Boards of Education, Incorporated.

In examining Committee Bill No. 41 and also Committee Bill No. 5087, I find them mutually compatible with the exception of Section 1, whereas in Committee Bill No. 5087, there are specific legislative phrases to spell out where the executive session can be used.

I would like to testify in favor generally of these two bills, and specifically as a representative of the Connecticut Association of Boards of Education, Incorporated, to proposed House Bill No. 5087, AN ACT REQUIRING ALL PUBLIC BODIES TO CONDUCT BUSINESS IN PUBLIC, or as it is now termed, Committee Bill No. 5087, AN ACT CONCERNING FREEDOM OF INFORMATION.

In a recent poll of school boards and their members across the state of Connecticut, the Legislative Committee of CABA found approximately seventy-eight board members and school boards in favor of a state sunshine law, with twenty-five board members and school boards opposed, and nine board members and boards voicing no opinion.

These results indicate by and large that among school board members polled the concept of a sunshine law is supported by about three to one.

The Simsbury Board of Education, for example, voted unanimously in favor of a sunshine law.

CABA supports the concept of a sunshine law which limits a school board's right to hold executive sessions to such matters as:

- (1) Development of a negotiating position.
- (2) Discussion of personnel and student matters in which individuals are identifiable.
- (3) Discussion of new site acquisition and construction.

CABA in particular would like to stress that Committee Bill No. 5087 should include some reference to protecting students and not just public personnel, from being readily identified under Section 5, "executive sessions."

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Okay. Many school boards must deal with students as well as public personnel. We believe strongly the right to privacy must be extended to the student as well as to the adult teacher or administrator.

Speaking personally as an individual elected town official, I would like to support heartily Committee Bill 5087, AN ACT CONCERNING FREEDOM OF INFORMATION. Such a law would permit...for the public in the quest of public records of meetings.

Also I would like to think that the press would be better able to fulfill their responsibility under the First Amendment to the U.S. Constitution and print more accurate accounts of the public's business.

With such a sunshine law in Connecticut, the press would be less likely, I think, to rely on second-hand information or mis-information from officials and the law would thus open up the process of government to all. For it's stated by John Gardner, Secrecy is fatal to accountability, and accountability is the central ingredient of free self government.

The citizen cannot hold public officials to account if he is denied the information which would make that possible -- what you don't know, you can't object to, and too often what you don't know, is what you get.

Thank you very much.

SEN. JULIANELLE: Thank you. Can you leave that for the record? Thank you. Senator Gunther.

SEN. GUNTHER: Mr. Chairman, I'm sorry to be late but I got tied up in another hearing and I appreciate the courtesy. I'm Senator Gunther from the 21st Senatorial District. I'll be very brief.

I just received a copy of 41. I heartily support any of the bills which will open up government in the State of Connecticut because I know it's working out in many of the other states, that have passed this law, and I think that we've had a lot of sunshine up here this year. I think we can stand even more sunshine.

I'm a great advocate of this and have been for many years. I've put probably twenty-five years in various offices -- whether it's the town council, board of education, various boards and committees, and I'll tell you, the attitude of the people on these boards when you have wide open meetings is a hell of a lot different than what they do in the back room. And I think all you fellows sitting up here know it as

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well as I do.

And I think the only way we're ever going to end the cynicism between people and government on every level is that we open up the doors good and wide and I know that the Watergate thing has certainly opened up a lot of eyes and some back room political maneuvering and that, but it goes on in government--and you know it.

And we know that the darn thing ought to be cleaned up. Now, right now in the City of Bridgeport, the Town Council has rejected an appeal by the League of Women Voters down there to open their meetings up. And I think we need this type of a law that will instruct these fellows that by God, do your business out in the public where it belongs so that people can see what you're doing and I don't think we will have this cynicism that exists today.

So I would strongly endorse all the bills here. I understand this is a good bill -- 41. I read about half of it and of course, I'll say, I think the penalties are absolutely essential because we find that many people flaunt the law as it now exists -- as far as the right to know is concerned, because they know darn right well there's nothing you're going to do about it.

So, let's get this out. Let's get it on the deck and let's open up all levels of government in the State of Connecticut. I think it's healthy.

Thank you.

SENATOR JULIANELLE: Thank you. Charles Mockriski.

CHARLES MOCKRISKI: My name is Charles Mockriski. I'm a lobbyist for the Connecticut Daily Newspapers Association. I'd like to introduce for the benefit of the committee today a few members of the working press that we've got here -- broadcasters and the newspaper reporters who will give you some of the very important insights that they have in the need for this kind of legislation.

You've got three bills before you today. 1268, 5463 and 41, which has just been made available by photocopy -- which are very similar to each other with only slight changes. I think they sum up what the members of the working press, who, of course, are working in the interest of the public's right to know, would like to see in this kind of legislation.

The first speaker -- and they will be brief -- is Eugene Martin from

the Waterbury Republican American.

EUGENE MARTIN: Mr. Chairman, Members of the Committee. My name is Eugene Martin. I'm Executive Editor of the Waterbury Republican American and Vice-President and Legislative Chairman of the Connecticut Council on Freedom of Information.

First of all, I'd like to express the appreciation of the Council for all the work that's gone into preparing right to know legislation -- work on the part of your committee -- various legislators -- the Governor and her staff and from the private sector.

I think the thrust of the legislation here today -- it shows that you share our concern that now more than ever the rights of the individual through openness of government need protection.

We have come here today to address ourselves to Bill 5087 and we were greeted with three new ones -- 1268, 41, 5463 -- which will make some of my prepared statement inoperative.

We're happy to see this. I really never thought the present law, as it was written, as the framers of that law intended it, was all that bad. I think there's abuses on the part of some public officials and some public agencies, perhaps through lack of understanding -- some ignorance and sometimes arrogance, that brought about the weaknesses in the law and rendered it ineffective.

I refer to some abuses on the part of officials who met regularly to conduct public business and they call them work sessions, caucuses, informal discussions, meetings of committees at the home and even telephone meetings. And some officials and agencies and boards who use the executive session not as a legitimate device to air sensitive matters in private, but as a means or excuse for holding all or most of their public business in private.

Then some officials, boards and agencies who knew that an appeal from denial of access...costly. They also knew they were denying courtesy sometimes, that really the loss -- there's really no penalty for denial.

And they also kept the sketches of minutes and details. The Constitution of the State of Connecticut requires that the General Assembly hold open sessions on its debates -- that they be open to the public. And I think the framers of the Constitution had in mind not only how members of your General Assembly voted was important, but also the debates that led to the vote.

The one big weakness in the current law, of course, was one that Attorney Sorokin went into in some detail and I won't belabor you by going over it again. That is there is no provision for coverage of legislative bodies.

In any event the major weaknesses we found in the present law, as it's been working lately, is the matter of executive sessions and their abuse and there's no requirement for obtaining police blotters. There is no set definition of what is a meeting.

These are all areas that have invited repeated abuses. There are also no penalties really for violating the right to know statutes, and the matter of speed -- it's very difficult to get a fast hearing if you have been denied access.

I think all of the bills that we're offered here today in addition to 5087, do meet whatever objections we have to the present right to know law. There's one area, I think, that may have been overlooked, and I think that there should be a definition of minutes of the meeting. In many boards and agencies there is as I say the sketchiest of outlines, but I think definition of minutes is advisable and desirable. In fact, and probably what it should contain is a copy of the notice of the meeting, date, time and place of the meeting, the list of those present, and for how long they attended the meeting, and a record of who voted and how, and of course, the inclusion of any material that any member of the public body requests.

There probably should also be some provision for preliminary minutes. A definition of that -- and they should be covered by this law. Many boards hold that preliminary -- there really are no minutes of the meeting until the secretary presents them at the subsequent meeting. So therefore...the requirement of the right to know law ineffective.

I think the recent events of national, state and local levels have shown that the news media can be a very valuable instrument of our democratic system. In fact, the system really depends on the public and how much it knows.

I would like to offer our thanks on behalf of the Council to you people for your efforts and offer any help we can to help you produce right to know legislation.

Thank you.

SEN. JULIANELLE: Thank you. Will you leave a copy of your statement there?

REP. DZIALO: Mr. Martin, might I suggest to you and other speakers who will be

coming after you, if you have some specific ideas regarding any of these bills, we'd be delighted to receive communications from you. You know, indicating --

EUGENE MARTIN: We do. We'll try to get them together for you. We haven't had a chance to digest all the material today.

REP. DZIALO: We'd be grateful if you would submit those.

SEN. JULIANELLE: You don't think there's a conflict of interest in the right to know, do you?

EUGENE MARTIN: Oh, no. (Laughter)

THOMAS EATON: I just have a very brief comment. I represent the Connecticut Broadcasting Association. My name is Tom Eaton. We are also affiliated with the Freedom of Information Council, of which this gentleman just spoke.

Connecticut has come a long way in the right to know field -- not only in what you've done here in the Legislature in opening up the sessions over the years. When the first Freedom of Information law was written it was a very small start, but it's been improved upon.

I think this year the Legislature and other people involved in this have shown a tremendous surge forward in the right to know field. And anything that the Connecticut Broadcasters can do to assist you, I think as Mr. Martin just said -- we've just seen the latest bill, but all of the bills I think encompass many of the things which will go towards opening up the records of the meetings.

One specific thing listed in the bills -- and put in the latest one is to limit the radio or TV coverage to just Connecticut stations. I don't think you really want to do that. I don't think you want to say that, for instance, a station in New York or a network does not -- should not come in. I think it should be open to all broadcasters.

The next gentleman that is going to speak to you is Steve Collins from the Danbury Times.

STEPHEN COLLINS. Good morning. My name is Stephen A. Collins. I'm Editorial Director of the News-Times in Danbury, one of the founding members of the Connecticut Council of Freedom of Information, and I speak today not only for myself but on behalf of the Connecticut Daily Newspapers Association.

First of all, Tom, I want to thank you. It was so wonderful to come

to a committee hearing such as this and find the awareness and the support and the dedication that is apparent here to me today.

I speak from having -- I think it was the 1951 session when we first tried to get a right to know law and one woman got up and complained that if there was a public records law, she -- someone would find out how old she was because she was a retired school teacher.

I was also particularly pleased because six or seven years ago when I was involved with the Connecticut Citizens Conference of the General Assembly pushing for modernization of the Legislature for annual sessions and for better pay and for better facilities and for other efforts. And we've still a long way to go on facilities and staffing.

One of the things that I said then was that there would be a trickle down effect in improving the Legislature -- modernizing the Legislature. Eventually it would come down and have a good effect on boards and commissions in local communities, and I think the type of legislation which you have brought out as committee bills for consideration this morning indicates that my prediction back when we were working on the drafting committee for the statement -- some of you may have those little books -- blue covered booklets we put out -- the prediction I made then is coming true, and I want to thank you very much for it.

I would like to endorse the recommendations for some strengthening sections, particularly in reference to minutes. There's a situation most common in western Connecticut that is not Representative Mannion's District, although it is close to it where tomorrow they are having referendum number five on their school budget for the current year.

The town has been in an uproar. One of the reasons there's been an uproar is that there's been a high school building that's partly finished. The contractor walked off the job. And this has had a subtle effect on anything in that town dealing with budgets or education. The school building committee had conducted all its meetings in executive session. Its minutes were never approved so that they were recorded and this went on for months.

Finally, when the situation came to light, it was too late really for other town officials or whoever might have been concerned to take corrective action. So they're now involved in uproars over their current school budget. They're going to bid to get the high school completed. And much of this goes back to the fact that the residents and taxpayers of that community were denied full information of what was going on through misapplication of the present right to know law.

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I join all the members of the Connecticut Council of Freedom of Information and I speak for the Connecticut Dailey Newspapers Association in thanking you and offering you every cooperation there is to getting laws which will truly serve the public sector.

Thank you very much.

BICE CLEWOW. Gentlemen. My name is Bice Clewov. I'm Editor of the West Hartford News and Secretary of the Connecticut Conference on Improvement of Information. It's not a big paying job but I've been in it for about twelve years and I'll try to give you a few minutes of perspective on it.

The Council is made up of natural competitors -- radio, TV, weeklies and dailies. But I think it came together in response to a feeling by all of us who work as agents for the public in finding out what's going on in the State because we felt that there was something here bigger than all of us.

I'm pleased to find out that Republicans and Democrats who are also natural competitors are getting together to help us in this fight.

Let me just give you two things which seem to me to suggest that the time is now for moving ahead as Tom says we've been for sometime. Last year a national organization surveyed all the states in terms of the amount of sunshine that was shining on their public business and the listing went from one, which was the least sunshine, to eleven which was the most sunshine, and Connecticut on that scale was rated as four. So though we've come some way, we have some way to go, and it's reflected in these bills.

The second thing I'd like to tell you is that during this last year or two we have had a vast increase in the number of incidents around Connecticut and they come from Lakeville and Enfield and Willimantic and Waterford and Guilford and New Haven and Bridgeport and Trumbull and Greenwich and you name it -- Danbury -- where more and more those folks who are doing the public's business seem to have a temptation to want to do it in private.

The Council has taken legal action in many cases but it has many more under observation. The President of the Council at the moment is Dan Kopsfrom WABZ and he had to be in Washington today so he asked me to give you his statement and with it to say that we appreciate very much -- I've been appearing before Legislative Committees for the last thirty-five years and I've never seen one more attentive.

Thank you very much.

ROBERT ESTABROOK. Mr. Chairman and Members. My name is Robert Estabrook. I am

editor and publisher of the Lakeville Journal and president of the Connecticut Editorial Association, an organization of about fifty weekly and daily newspapers.

I also appear on behalf of the Connecticut Council on Freedom of Information. I'm delighted to see the interest members of this committee have taken in the subject of freedom of information and delighted also to see the bills that have appeared today which materially improve the outlook.

I shall not duplicate what others have said except to concentrate on two -- to us very important points. Executive sessions in small towns are very much more the rule than the exception and remember I am familiar with. They badly need some sunshine and only through legislative action can this be accomplished because very often there is ignorance. Sometimes there is even defiance of the present law

Secondly, on the matter of the police blotter and arrest records. In many small towns in Connecticut the Connecticut State Police are the law enforcement. There is no regular law enforcement except constables and they don't count on this particularly.

For many months, even years, it was impossible to get arrest records so that no one knew who had been arrested unless the police chose to tell you and in certain towns this made it impossible for any newspaper to tell the public actually what the crime situation was -- how serious was it. What methods need to be taken.

The result was that in one town of which I am familiar - there was a referendum on whether they should have the local state trooper, the referendum failed not once but twice because nobody could tell them what the actual situation was. I think it's terribly important to have this as a matter of public record so citizens could know what is happening in their government

I am sure that you will understand this in the bill. I commend you for the work that you are doing and I thank you.

SEN. JULIANELLE: Thank you. You brought up the question of police blotters and this is something that's been particularly disturbing to many of us on the committee. Arrest records only show when the man is arrested. Constitutionally he's not guilty until he's proven to be guilty.

Now once you disclose the man is arrested it affects his reputation, it affects his job ability and it affects a lot of relationships that he

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has in the town. The argument that you brought up that people in the town have a right to know the amount of crime does not necessarily bear on the amount of arrests, because that is not the conviction record.

Now if they want to show how busy a police department is, I think the statistics as to the amount of arrests that are made can be shown, but I don't necessarily think -- and I'm speaking personally now -- that because a man is arrested, it should be blasted over the newspapers.

ROBERT ESTABROOK: Certainly it should be kept in context with the newspaper, but you certainly would not want police departments arresting innocent people here as could well happen and nobody would ever know about it otherwise.

If there is a public record and it is in almost every state that I know anything about, I never encountered a situation like this until I came to Connecticut. The police arrest record is automatically public information and every city that I know about -- every state.

It seems to me an essential protection to the public to know what the police are doing. Now they disclose obviously -- not all details of what led to the arrest. They are not going to plaster over the newspapers a lot of sensational material, but it's terribly important for the public to know if the police have acted properly or if they have acted improperly in a situation. Otherwise you never have any check on the police department as such.

SEN. JULIANELLE: Well, how does the public know that from merely seeing that a man is arrested. That's a function of the judiciary during the proceedings.

ROBERT ESTABROOK: The only corrective that can be noted in such a situation is one of indignation basically, and if the police are not asking for it -- if there is an assault or an erroneous arrest situation, you have to have some method of noting the indignation to protect the public it seems to me.

SEN. JULIANELLE: My point is, how does the disclosure of a man's arrest -- it gets to the point of whether or not he is justly arrested until you go through the judicial process.

ROBERT ESTABROOK: Well, you are not passing judgment on whether he is justly arrested. It is incumbent it seems to me upon newspapers to print the facts of his trial if it comes to that, and if he is found innocent, obviously..... but certainly we don't want arrests in secret in this State. We don't want people incarcerated in secret. And this is legally what could be done. Because there is no way that people know about it.

SEN. JULIANELLE: Well, the man is entitled to contact his counsel. His counsel will know about it. His family will know about it.

ROBERT ESTABROOK: Well, his family doesn't know about it if he's held. I know of one instance where someone was held for quite a long time before his family was told.

SEN. JULIANELLE: In other words, you believe by publishing the fact that he's arrested will stop the police department from tucking people away secretly.

ROBERT ESTABROOK: I believe that firmly. Yes, sir.

REP. DZIALO: May I ask, sir, how long was that man held that you're aware of? Without informing his family -- before they became aware of the fact.

ROBERT ESTABROOK: In the order of, I think, four to six hours.

REP. DEMENNATO: And if the family was told he didn't need a lawyer and then he was charged with a very serious crime. My main concern is the bias which is shown by some newspapers in the state towards arrest records. There is a tendency to publish arrest records and playing them up big while they down play the arrest records of other individuals.

This would be my major concern in this area. Who's going to watch the watchers?

ROBERT ESTABROOK: This is always a question, sir. In my own view, the disease still is a very serious one here. You cannot guarantee that there will not be abuses by some news media of the arrest record. I still think though that the public record -- and the fact that it is listed regularly is the best guarantee.

Obviously, what is news will differ to various persons. If a prominent person is arrested this will seem news to some editors -- perhaps not to others. The main point though is that the arrest record should be printed in my judgment whether it's Mrs. -- or anyone else. In other words, newspapers should not be subject to pressure about whether to print or not to print.

REP. DeMENNATO: The statement that I would make in that regard is that arrest records as news should be printed on the news pages. But when you start editorializing in the newspapers, this is when I am against it. I believe that --

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ROBERT ESTABROOK: My own...as yours, sir.

REP. MOYNIHAN: I have a question along this line but I would just as soon ask it of another spokesman of the industry, but I believe with the increased right to know and increased obligation of the press to attend meetings and report them...(inaudible)

For the record, Representative Moynihan of East Hartford.

...with the right to attend public meetings do not do that and sit back in their offices and week after week, year after year in some cases, of news analysis. And I believe -- I'm a great believer and a great believer in the editorial pages, but I agree with previous comments that that's identified with the editorial page, and I see increasing practice -- of news analysis on the news pages and the increasing practice was speculating on what the news perhaps is rather than attending public meetings that are open is of concern to me. I'm a hundred percent for what you're saying in terms of sunshine laws and I don't personally have enough knowledge of the police blotters to comment on that, but I do have a concern for that segment that don't--(inaudible)

ROBERT ESTABROOK: I fully support your statement. There are abuses in my profession as in most others that I am familiar with. The main point though, there --the right to attend is a guarantee to the public themselves. Now, whether the paper performs it or the broadcasting station is something that the public has to judge on -- maybe the performance is poor, but you can't substitute for the right to attend.

REP. MOYNIHAN: Does your association -- is it a two way street? Do you recognize the shortcomings of members of your profession and try to exercise--- professional criticisms or whatever in that regard? There's a very small minority, but I think you know them as well as I do.

ROBERT ESTABROOK: We try to, sir. There is not a formal machinery. We don't take --to expell something like that. We do, I think, talk a great deal about the obligations to listen to the public, to listen to the public complaints. Connecticut's Council on Freedom of Information has circulated a little box that a number of newspapers publish, which say that if you feel that you have been misrepresented or unfairly attacked in the newspaper we will be very glad to print a statement of reasonable length outlining your views. My own newspaper does this in a minute.

SEN. JULIANELLE: Thank you. Any further questions?

REP. BURKE: Just one. Getting back to the police blotter situation. One of the

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bills, specifically 5087, Section 4 talks about whenever an arrest is made it would be recorded on the blotter, which would be public information.

What's this going to do to the situation that exists now where perhaps by -- the names of juveniles are not printed?

ROBERT ESTABROOK: As I understand it, there are statutes in Connecticut that make the juvenile offenders act -- under the age of sixteen. I think you will find that most news media respect this, so I don't think that it will make any difference in that situation.

REP. BURKE: I don't think there's any statute on that. I may be wrong. I think it's been more a matter of custom, but the language in this bill would open the door right up. Do you think there ought to be a limitation?

ROBERT ESTABROOK: Well, I -- this is another subject and I don't want to take up any more time. I have some personal doubts as to whether we accomplish a purpose for society in the shielding of juvenile offenders, but I don't intend to --

I don't personally think it would make the slightest difference.

MR. CLYDE SAYRE: Just a comment while the press is here...that they present the original charge.

SEN. JULIANELLE: Thank you very much. Are there any further questions? Thank you. Do you have any more questions? Mr. Keesing.

HENRY KEESING: I'm Henry Keesing. I'm the Editorial Editor of the New Britain Herald. I'm on the Freedom of Information Committee. I'm also affiliated with a group known as Sigma Delta Chi, which is a statewide professional journalism group and they have a statement. I won't even read it to you -- just one of these bills, and it supports the principles.

One of the speakers made a point that Connecticut rates four in the scale of eleven. He stole my thunder. That's what I was going to tell you about.

Finance Study by the -- at the University of North Carolina on state open meeting laws. Here in the State of Connecticut there's an 1880-- was way ahead of everybody else with the first sunshine law -- particularly for the Legislature -- comes down to the point in 1975 where we're way behind everybody else. Very specifically, what this man did was to work up a set of common factors that appeared in the right to know laws around these United States and he found a law in all of them appeared consistently enough that he thought they would be a fair basis to com-

pare.

And I won't go down the whole list here but they do such things as providing penalties for violations, the clearing of actions taken at meetings which violate the law are null and void, providing legal recourse to halt secrecy, providing for an open legislature, providing for open county business -- you see, we're never going to make that -- we don't have county boards any more. So no matter what we do, that's going to be ten on this guy's scale. Providing for open meetings of agencies and bodies of political subdivisions of the state, and boy, that's where the ballgame is.

It's not up here. It's back home. It's on the school boards and it's on the finance boards and the assessors and so forth. We had a situation -- and I know this is true also in -- and I shouldn't tell you this because my God, I worked for these laws.

We happened to have as a result of all the redistricting that has gone in this state a situation where the Democrats have all fifteen seats in our city council. That's what the people wanted. That's true in other communities in this town, too. They never had to have a secret meeting. They just have a caucus. A political caucus to decide what the party's policies are.

But the fact is, and we all know it -- and they know we know it -- everybody knows it, is deciding party positions and they are also simultaneously deciding positions they are going to vote. So this is where the ballgame is. I really shouldn't have told you this. I think Mr. Sorokin very early in the morning said there's always somebody that's going to find a way to get around it. There it is. Even before you worked on this bill. You know -- you know there's a way around it. So please put a section in there to cover caucuses, huh?

In any event on these -- (Laughter) eleven points that he worked out, we nationally rated as one -- this thing down from top to bottom. There is Tennessee -- they have got all eleven covered. Arizona covered all ten. Kentucky, Colorado. But this was done in the summer of '74. This was when -- it's pretty current. It's pretty much up to date.

We have four points -- and that's really not so good considering. And, gentlemen, that's really all I wanted to say.

Incidentally, a couple of points. There is something -- something to add to what has been said earlier. First of all, juveniles cannot be technically arrested. The Juvenile Offenders Acts. Their names are not accessible. Second of all, on the incident of incarceration without formal arrest.

There was an incident here maybe eight -- ten years ago where a very well known state police captain held an individual about four days -- not six hours without a formal arrest. That led to some legislative reforms when it became known.

But you see the abuses will be carried out. One other point. The last gentleman who spoke was the editor of a humble little weekly up in the northwest corner of the state. He'll kill me for saying this. But he's also got a career in journalism which is one of the most respected in the United States as editor, as foreign correspondent, as a senior editor of one of the -- called the Westington Post -- before he came to Connecticut to run a small weekly well -- I should add.

SEN. JULIANELLE: That's why I asked him some of the questions I did.

HENRY KEESING: You--- (Laughter). Any questions, gentlemen?

REP. SHEA: Yes, sir. Representative Shea from the 19th District. I want to make sure I understand your testimony correctly. You indicated that thrust is not up here at the Legislature -- my question is, do you feel that the Legislature is doing a good job? Are you satisfied with the procedure here?

HENRY KEESING: In comparison, yes. (Laughter)

REP. SHEA: Glad I asked. (Inaudible) There are many other local communities where this situation does not exist. Where there is a strong minority.

HENRY KEESING: But we've always had them, too. This is just a little --

REP. SHEA: My question therefore is do you feel that open caucuses throughout the State at local levels, even where there are strong minorities --

HENRY KEESING: I frankly don't know how you can legislate this. I'll be perfectly candid with you. I do not know how you can legislate parties internal affairs. But when the -- discussion of party internal affairs is substituted as a reason for discussion of public business, it's extremely abusive. And I think any citizen -- any taxpayer -- anybody in the press or anybody has a right to be pretty mad about it. And we are.

REP. SHEA: Well, again, I want to be clear on it. Particularly referring to open caucuses -- in the City of New Britain or similar communities rather than across the board.

HENRY KEESING: Sir, this is just an addendum to the main point of open meetings. Government agencies at all levels, particularly in the subdivisions of the state.

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REP. MANNION: I have one question. I apologize for coming in late here. It might have been discussed, but I'm -- 5463 -- talks about a social meeting. I represent two small towns. Most of the people serve voluntarily on various committees know each other socially, too. And they go to a party. (Inaudible)

From what I can read in the intent of this bill we cover that.

HENRY KEESING: I don't know how to answer that, sir. I think the intent of that was that the practice of adjourning a meeting and meeting in the coffee shop afterwards for the purpose of resolving a point of dispute, which would have better been resolved publicly, is the focus of the committee's attention.

REP. MANNION: I understand that. (Not using microphone properly)

HENRY KEESING: Well, common sense would say you can't legislate that.

SEN. JULIANELLE: Would you be satisfied if it were written into the law that there has to be planning or intention to meet either socially or otherwise to discuss matters of a public policy or official business, rather than just the accidental achievement of a chance meeting where there is no pre-formed intent to discuss it?

HENRY KEESING: Providing that there is strong terminology in the law to give information of a said meeting will be held. Yes.

SEN. JULIANELLE: I'm saying if there is intent to have any kind of a meeting, whether it would be in the coffee shop or not, then you have to give notice. But if there is no intention to discuss public policy.

HENRY KEESING: In other words, a chance meeting? But if it is done purposely --

SEN. JULIANELLE: Well, that's the point Representative Mannion --

REP. MANNION: The problem -- (inaudible)

HENRY KEESING: I am not very excited about that, but I'm really excited when these same people will go into executive session without meeting the statutes as they now exist, and say they have to formally vote it and they have to give formal reasons for so doing, and then they hash out these things and the next day you learn the kindergarten has been closed or you might never learn it until it turns up in the record. This is abusive. This is what it's all about.

REP. MANNION: I agree with you whole-heartily.

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REP. SAYRE: I have one question. As the only Republican sitting up here -- are you talking about party caucuses? And I just wondered what kind of a field day the press would have when we're talking personalities at a party caucus as to who will run for this office or that office. (Inaudible). But personalities I don't think you should open up for caucus purposes.

HENRY KEESING: Well, you chip away at legislation here and you do your best to ...you believe legally should be covered. So perhaps we could strike a half a loaf and just have this apply to the Democrats.

MR. MOKRISKI: Just to summarize for the Connecticut Daily Newspapers Association and the Council on Freedom of Information. In respect to the question about the social meeting of Representative Mannion -- a meeting is defined as an assembly in which a quorum is present and a quorum is otherwise defined in the Act, so I think a chance confrontation or encounter of members at a coffee shop would not be included.

This certainly has been taken into account. You might want to refine the language somewhat.

SEN. JULIANELLE: Suppose it's a cocktail party at which the whole commission along with many of the other officials in town are invited?

MR. MOKRISKI: Quite frankly, there are a lot of those occasions which are comprised in order to get together to discuss official business and if you had a quorum or all of the members of a public agency together to discuss official business seems to be strong public reason that the meeting should be open to the public, especially if business is going to be transacted.

I'd like to thank the committee for hosting -- I hope not too long a presentation by the working press in Connecticut. After all the press is the eyes and ears of the public and so they occupy a rather important area in this field of the public's right to know.

In response to problems and doubts and questions and fears that partial and biased and unsubstantiated disclosure of government actions or police records might cause particular problems.

I emphasize that the remedy for partial and unbalanced disclosure is not noticed in your bill at all, but it's rather a full disclosure-- more disclosure. As long as you leave it within the discretion of the public agencies, police departments and others to dispense and disseminate only that information which they for their own purposes think the public should know, and you have partial disclosure. And partial disclosure is

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very dangerous and I think the remedy for it is full disclosure and openness.

Thank you.

REP. MANNION: Mr. Chairman, one small point. (Inaudible) Is that correct?

MR. MOKRISKI: And the remedy is more vigorous and harder working and greater coverage by the press.

REP. MANNION: And bigger papers.

REP. DeMENNATO: I would just like to make one point. That is that the General Assembly -- and as a matter of fact, all political bodies in the State of Connecticut have been on the hot seat and have been criticized for quite a period of time by the newspapers and the working press.

Now, we're making a very serious attempt over here in Hartford and locally to clean up government. And I would just like to see the newspapers take a very hard look at their membership and try to make the same effort.

MR. MOKRISKI: Representative, I think the progress that has been made in the state government in openness-- in democratic participation has been admirable, and I like to think it's been in no small measure due to the degree of work of disclosure that's been brought to this state's operation by the press.

SEN. JULIANELLE: Mr. Olds.

WILLIAM OLDS: My name is William Olds and I'm the Executive Director of the Connecticut Civil Liberties Union and I speak here on behalf of the CCLU.

I share some of the suggestions of the committee members regarding what at times may be the irresponsibility of the press, but I think you would all agree with me that we cannot legislatively mandate responsibility on their part or otherwise we would be violating the free press provision of the First Amendment.

It's something we're going to have to live with for a long time. I think, as Senator Gunther touched on several moments ago, that since Watergate the area of secrecy in government is one that has become today of vital interest to most Americans, including people in this state. The public wants to be aware of government actions and govern-

ment, whether it's at the federal, state or municipal level, should be responsive to the public.

The people's right to know to know the process of their government decision making and the documents and statistics leading to determinations is very basic to our democratic society.

Too often, state agencies and municipalities have denied the public and the news media access to public material. Too often executive sessions have been used as masquerades to prevent the public from learning about irresponsible actions.

The federal government recently passed the federal Freedom of Information Act which gives the public access to a great deal of information which was not previously available. But that Act applies only to federal agencies. In Connecticut, which at the present time has, in our opinion, one of the weakest right to know laws needs to follow the direction that has been presented by the federal government.

I think we have to remember that the government is really the public. It is not faceless government officials. The information belongs to the public generally speaking and not to those officials. And for that reason the public and the news media, through which the public obtains a great deal of its information, should not have to claw and struggle to gain information.

When we realized that the General Assembly, perhaps for the first time, was going to seriously consider strengthening the right to know laws, our State Board of Directors created a subcommittee of the board, consisting of a number of attorneys and non-attorneys to wrestle with what might be an appropriate recommendation to this committee.

That recommendation was presented, I believe it was last month, to the CCLU State Board of Director at the Yale Law School and a number of the members of the Yale Law School faculty participated in the discussion.

We agree that government cannot effectively operate in the public interest or might on some occasions violate the individual's right to privacy if in a few narrow instances it could not go into executive sessions.

It is our policy that closed sessions may be held upon the majority vote of the body conducted in public following the reasons for such closed sessions to act in four basic instances only. And I'll briefly mention those four, as we see it. We see this as a minimum

We think Committee Bill 41 quite adequately covers and is very commendable in that regard.

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to that bill, if I may, because I see some other problems with that particular bill.

Any questions? Again, I compliment you for your serious endeavor.

SEN. JULIANELLE: Any further speakers on Bill 1268? Yes, sir.

KEVIN KAVANAUGH: My name is Kevin Kavanaugh and I'm the Vice-Chairman of the Tolland Board of Selectmen and my remarks are very brief.

Number one. I am here this afternoon to give my strong support to the sunshine concept and I urge this committee to report out a very strong and all-encompassing bill regarding the openness in government.

Number two. I think Bill 5087 probably represents the best step forward to doing this type of thing. I think it's a very good bill and I think it's one that workable and enforceable, which is most important.

My third point is one recommendation I would make, and you talked about it briefly before, is that in any bill, whether it be 5087 or 41, I urge you to strengthen the section dealing with the term meeting. I think that as it stands now the term "meeting" definition could cause chaos both for the public and the people, and contrary to a remark that was made that the word "quorum" would take care of it, I think you must realize as was mentioned before, that in many small towns their government body consists of a three man Board of Selectmen. Therefore, a quorum is two.

Therefore, in many small towns, whether it be a shopping center, around a green -- those two gentlemen -- their odds of meeting -- or ladies -- are fantastic. Our own Board in town -- we have a seven man Board and a quorum would be four. And I can think back a number of times in two years that we have met either on the green, at dances, etcetera, unknowing that we're all going to the same place.

So I think it could cause chaos. It wouldn't be intentional. It would be unintentional. It could create problems both for the public and the people. So I think as Senator Julianelle mentioned, there has got to be something put in there regarding planning intent. I don't know what it is. But you've got to do something with that section.

I think that's very definite because I think that's the whole crux of the openness in government. If that isn't defined properly in the sense that people can understand throughout the State -- it can't be left open to interpretation. I think that's the key thing.

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If you can report out a good bill that no one has to sit down and interpret in town to town, I think that's very important.

If we end up with definitions that town counsels in various towns will interpret differently, we've got a very large problem on our hands.

Could I commend this committee for the work it has done? I think that the legislation that will come out of it - I'm very hopeful it will be very good and very strong, and I think you should shy away at all from making sure the legislation makes us as elected officials in the towns and you here in Hartford to do your job in front of the people.

Thank you.

SEN. JULIANELLE: Thank you. Just one question, Mr. Kavanaugh. You think if we took out the language -- I'm looking now -- what bill do you have before you?

MR. KAVANAUGH: 5087 and 41.

SEN. JULIANELLE: 5087, line 40. We took out the paragraph at which -- the line on which matters relating to official business are not discussed -- would that cure or would that --

MR. KAVANAUGH: Well, that was what I was addressing before. I thought you could take that out, you know, and it would be all right. But I'm not sure whether we should be more positive and put in something that Senator Julianelle mentioned about planning.

Either way, I think you're going to have a problem. I think there's -- a hundred percent, you know, perfect answer to that problem of definition.

SEN. JULIANELLE: You wouldn't object if we inserted with the intent and purpose?

MR. KAVANAUGH: No, I wouldn't object to that. Or I wouldn't object to Representative Burke's way of taking it out. Either way. But I think, you know, from a small town standpoint a quorum is so easy to come by in any body, that you've got to be very careful.

SEN. JULIANELLE: But you do think that it should be disclosed if there is intent and purpose to discuss even though it's at a social meeting?

MR. KAVANAUGH: You're saying if a quorum went to a social gathering for the purpose of intent to discuss it -- there's no doubt about it.

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SEN. JULIANELLE: In other words, if there is an event in town and you know that ten of the members of a particular board are going to be there and they say well, this is a social meeting, but why don't we get together and discuss this particular bill. That should be disclosed.

MR. KAVANAUGH: I believe that to be true. Yes.

REP. MANNION: Representative Shea just said... (Laughter)

SEN. JULIANELLE: Any other speakers on Bill 1268?

JOEL GORDES: Mr. Chairman and Committee Members, my name is Joel Gordes. I'm from the Connecticut Citizen Action Group in Hartford. I came up originally to speak on 5087, but I'll defer those remarks.

Generally the Connecticut Citizen Action Group supports the idea of freedom of information -- the idea of the right to know sunshine law, and 1268 has some excellent points to it and maybe I could just throw in a few things. Some of them have been covered before, but maybe I could add a few new forms.

The question, for instance, comes about if an agency gets one-quarter of its amount of money from the state it should be under this act. Maybe rather than a percentage -- and some have said five and some have said ten -- the act says twenty-five -- possibly a dollar amount, and for this reason.

You might have one institution that gets only ten percent of its funding from the state. However that ten percent might add up to three million -- let's just say in this instance. Possibly no such instance exists at this point. But conceivably in the future.

So rather than do it as a percentage, it might be better to go at it by dollar amount and that is something for the Legislature or some other body to possibly set. I don't have a set figure.

Sometimes it's sort of interesting. I can remember when I was a volunteer for the Group and we were picketing outside here and you just didn't know what was happening but this fellow with a camera -- he was taking pictures. I was very new to the group then. And he was taking his pictures and I said, who's that? Is he from the newspaper? Oh, no. I'm from the police. And ever since then I have sort of personally wondered what type of file the police have kept on myself, and I don't know if this act by certain stipulations would allow me to find out on this file just what there is.

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they didn't do it openly. So the people were saddled with "a horrendous contract".

And my point to you gentlemen is that I don't think this would have happened if it were done openly. So I heartily agree with what you suggested.

Thank you.

SEN. JULIANELLE: Any other speakers on 1268? A lot of these bills -- the next one, two, three, four bills all deal with the right to know. So if you have already spoken -- unless you have something that's particularly different than has already been brought out, we would appreciate it if you would defer your remarks and submit them in writing because we do have a number of lobbyists here.

5087. Any speakers? Mr. Tyler.

MR. TYLER: I would just like to mention one point that I didn't mention before. One thing that I'm really in favor of open government for is there is a certain concept that prevailed and has prevailed in the administration that I think has to be corrected, and the concept is protection of the leader.

You know, we saw this in Watergate. We saw this to a certain extent in the recent My Lai situation.

And the concept with this was this way. What the leaders don't know he can't be held accountable for. Remember the questions in Watergate were, what does he know? The question of the past Governor, what does he know?

I think there's a legitimate question from an administrative side, and this is one reason we need more openness perhaps, and that's an administrator is accountable also for what he should know. He may not know it but he should know it. And I think there's a certain accountability there.

Now, the problem is that this accountability winds up either in the criminal process because we really don't know the administrative law set-up, and if it isn't criminal then we say it's non-existent. I don't think that's the case and I think the open idea -- the idea of open government, if it's truly open and if more people were looking, then more issues would come to the forefront before it reaches the criminal type of situation, and perhaps if it's open too, by the participants being aware that it's open, it won't even get the light of day.

So I think this is something to bear in mind as you write this thing. It's not just what does someone know, it's also to be accountable for what they should know, and perhaps they don't.

Now, as an administrator, naturally I have to be concerned about my employees feeding information up to me as well as what I read in the paper, and as well as what they don't feed up to me. And I think I should be accountable for that. And maybe the idea I would be more accountable and I would actually get more information to make a better decision if, for instance the paper in the recent leasing situation that had access to the leases after they were completed, and it was, you know, obvious -- perhaps by the fact that that came out in the paper it wouldn't have been blown up as it was and into the situation that it created. And everybody would have been better off because the situation could have perhaps been corrected before it got out of hand for everyone and everyone wound up in a defensive position.

On 5087 I have a lot of comment on this particular bill. I will submit them to you in writing, however I would like to address a couple of points that are separate because after all, this is a public hearing and I think some people, you know, it's an education process. It's not only educating you, but there's some other groups, you know, might have missed this.

Like I certainly, when I went through it -- and I went through it rather extensively -- missed some points other people made, and I think they are good points.

I totaled up in Section 7, a and b, if I were to make a request to an agency, I totaled up the number of days that it would -- and they denied me the request -- the number of days...the court of Common Pleas that go on the regular docket -- not special, but regular docket, is ninety-eight days.

I think that that is a rather long period for me or anyone else to ask for something and then wind up being stalled off, and if I were an administrator, man, I would love this section because I could stall off and I could just sit there and hope the thing blows over. And I think that that has got to be corrected.

I also have some reservation about creating a commission. I think, you know, I'm not a lawyer. There may be another way to do it, but I think there's a problem in terms of...commission, a three person commission, essentially appointed by the Executive Branch, so there you've got a potential conflict of interest already. They're going to be getting a

salary and as the bills are written, I guarantee they're going to be very busy, you know, unless some changes are made.

I wonder if perhaps this couldn't be speeded up by addressing the question of since you are dealing with review, maybe creating a special Bureau or somewhat in the judicial branch to handle this. It might be less expensive and it might be better off. Of course, then you run into the question of well how can they review the judicial branch?

Well, maybe ultimately you wind up with your Commission. But in any event address this question of ninety-eight days.

In the other bills, it's a little smaller, but not much smaller. And just one other question. In the other bill -- I forgot to mention it but I think it is rather relevant and that is I know that at the end of it they had a thing, and maybe, you know, Watergate did get a hold of you a little bit, but I noticed at the end of this there's -- it says this act shall take effect October 1 except for Section 18, and that's July 1.

Well, and this one says it takes effect -- Section 8 takes effect or that particular section relating to destruction of items, takes effect immediately upon passing. In either event, I suggest you have it take effect before immediate passing, otherwise you're going to have a potential of a lot of bomb fires and a lot of paper shredders in operation.

Again, I do have specific comments. I will submit them to you. One copy to each one of you in writing, and I thank you for your time.

SEN. JULIANELLE: Thank you. Any speakers on 5463? 7901. 7962. Speakers on 6382? STUDY COMMITTEE TO INVESTIGATE METHODS OF REAPPORTIONMENT.

BARBARA SAXE: Mr. Chairman and Members of the Committee. I am Barbara Saxe of West Hartford speaking for the League of Women Voters of Connecticut.

I am here today to support House Bill 6382 concerning the study committee to investigate methods of reapportionment.

The League of Women Voters believes that both Houses of State Legislatures should be apportioned substantially on population, for we believe that each voter's vote should be of equal value in a democratic and representative system of government.

We recognize that the 1980 Federal census is still five years in the future. We remember, though, as do many of you, the number problems faced in reapportioning this General Assembly after the 1970 census.

*Read  
with  
minutes of paper #4*

H 35087

STATEMENT OF DANIEL W. KOPS  
CHAIRMAN

CONNECTICUT COUNCIL ON FREEDOM OF INFORMATION

I am Daniel W. Kops of Hamden, Connecticut, Chairman of the Connecticut Council on Freedom of Information, and President of Kops-Monahan Communications of New Haven (WAVZ and WKCI). I am also past president of the Connecticut Broadcasters Association.

I have been actively involved in the Council since its formation in the early Fifties to represent all media -- the daily and weekly newspapers and the radio and television stations of the state -- in the area of freedom of information to assure full access to the workings of our government at all levels. We have been functioning, not in furtherance of our own interest, but that of the public. Our media represent the eyes and ears of the public in a complex age with little direct contact possible between citizen and countless governmental activities.

We have been appreciative of the cooperation of the Legislature, dating back to passage of the original freedom of information laws and subsequent amendments. We are also appreciative of the expressed support by both Legislative leaders and the Administration in our common objective of achieving open government by action at this session. Such action is urgently needed to eliminate weaknesses in the present law which have resulted in denial of access to public information at various levels of government and in various communities.

I know your Committee shares the concern of our Council that the law resulting from your deliberations must be fully meaningful and addressed to the concerns the people of Connecticut have to know about the workings of their government, on a current basis.

Our Council spokesmen are here to speak in detail about the facets of the law which must be strengthened, if we are to have that open government.

I would like to stress the importance of assuring the law applies to all public entities, legislative, administrative and judicial, to all political subdivisions and to all levels of government. It is essential that access be on a timely basis and that the law stipulate penalties for non-compliance. We have also urged that there be safeguards on executive sessions and to assure that all definitive action taken be open to the public, including the votes of the participants.

The average citizen comes into contact with government particularly on the local level. Just as it is desirable for the citizen to have full access to the workings of government on the state level, it is equally important for the citizen to have full access to the decisions of local boards, the arrest and complaint records of local police departments and the decision-making processes of city and town councils. Our system of government has been built on confidence in people who are fully informed about their government.

Thank you for your attention.



CONNECTICUT CHAPTER

*Read into minutes  
Tape # 5*

This organization supports the principles which prompted H.B. 5087, a bill intended to provide citizens with greater access to the activities of Connecticut government at the state and local level .

The need for strong legislation to enforce the First Amendment guarantee of freedom of information is particularly evident in this state, where the absence of a strong right-to-know act has encouraged policies of secrecy which are inconsistent with the basic concepts of a Democracy.

April 4, 1975

*Alexander Grillo*  
PRESIDENT

*Read Minutes #1*

CONNECTICUT CIVIL LIBERTIES UNION

POLICY ON DECISION MAKING IN  
LEGISLATIVE AND ADMINISTRATIVE  
BODIES - ADOPTED FEBRUARY 24, 1975

The policy of the Connecticut Civil Liberties Union shall be that all meetings of any legislative, executive, or administrative body of the State, municipality or any subdivision thereof - including, but not limited to, the Governor's cabinet, any board, commission, authority, council, agency, committee, or subcommittees or subordinate groups or advisory committees to the above bodies, and also including any State or municipal school authority, school board, school governing body, commission, the board of trustees of all State-aided colleges and universities, the board of trustees of all State-owned colleges and universities and all community colleges, or similar organizations that perform or have for their purpose the performance of a governmental function shall be open to the public.

Meetings, exclusive of party caucuses, shall be defined as those gatherings where there is:

- a. a planned or organized discussion meeting open to all members of the body;
- b. a collective decision by a majority of the members of the body;
- c. a collective commitment or promise by a majority of the members of the body to make a decision; or
- d. an actual vote by a majority of the members of the body to make a decision; or
- e. an actual vote by a majority of the members of the body upon a proposed motion, resolution, order, or ordinance.

No resolution, rule, regulation or action shall be considered binding unless passed at meetings which comply with the provisions of this policy.

Each such body, where appropriate, shall have a regular schedule of meetings which shall be made public, and special meetings shall be held only upon reasonable notice to all members of such body and to the media. Minutes shall be taken of all meetings, including closed sessions, and the minutes and all other materials submitted to open meetings shall be matters of public record. Minutes of closed sessions shall be matters of public record and any other materials submitted shall be available to any court reviewing the action of said body. All votes shall be recorded by member voting.

Closed sessions may be held (i) upon the majority vote of the body, conducted in public, following (ii) a statement of the reasons for such closed sessions, (iii) to act, in the following instances only:

- a. to consider the hiring, dismissal or disciplining of any non-elected public employee or licensed person, or to investigate charges against him or her, unless the person affected shall have requested an open meeting;
- b. to consider and negotiate employment contracts;
- c. to discuss with legal counsel for the body matters pertinent to imminent or pending litigation (not simply advisory consultation);
- d. to act in investigative and security matters pursuant to legitimate state interest.

Such closed sessions may not expand their discussions to include any other matters.

The court may assess against the government body, agency, commission or official involved reasonable attorney fees and other litigation costs incurred in any case challenging closed meetings.

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HOUSE

PROCEEDINGS  
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it is in the interest of the people of Connecticut and it should pass.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 92nd.

REP. WEBBER (92nd):

Mr. Speaker, may this item be passed temporarily, retaining its place on the Calendar?

THE ACTING SPEAKER:

Is there objection? Hearing none the item is passed temporarily.

THE CLERK:

Calendar 0910, substitute for HB 5087, AN ACT CONCERNING FREEDOM OF INFORMATION.

THE SPEAKER IN THE CHAIR.

THE SPEAKER:

The gentleman from the 33rd.

REP. DZIALO (33rd):

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

THE SPEAKER:

The question is on acceptance of the joint committee's favorable report and passage of the Bill, will you remark sir?

REP. DZIALO (33rd):

Yes Mr. Speaker. Mr. Speaker and ladies and gentlemen of the House, I rise in support of this Bill. Sometimes referred to as "Right to Know" legislation. The Freedom of Information Act or the Sunshine Law, the proposal before us today is indeed a Bill that if passed, will insure that the public's business is once and for all conducted in public. It is the right of the people

of the State to have access to public records and to be able to observe all public meetings by their appointed and elected officials and public agencies. This Bill assures an end to the secrecy and assures a government conducted in the open. The State's existing "right to know law" has been ineffective. It has been unable to protect the public, unable to insure that meetings are public, unable to mandate that records are available, unable to assure that all citizens have access to the processes of government. This Bill before you embodies the significant, no I must say, sweeping changes in the present law. Mr. Speaker and ladies and gentlemen of the House, the Committee on Government Administration and Policy has worked tirelessly on this Bill for a considerable period of time. At this time, I would like to yield to the gentleman from the 56th district, Rep. Martin Burke, to whom I am grateful for his untiring efforts and long hours of work as one of the architects of this Bill, in order that he introduce an Amendment and provide a detailed summary of the Bill. Rep. Burke.

THE SPEAKER:

The gentleman from the 33rd yields to the gentleman from the 56th, Rep. Martin Burke.

REP. BURKE (56th):

Mr. Speaker, the Clerk has an Amendment, LCO #7741.

THE SPEAKER:

Will the Clerk please call LCO #7742, House Amendment Schedule "A". Would the gentleman care to summarize?

REP. BURKE (56th):

Yes Mr. Speaker, I'd like permission to summarize. Mr. Speaker, there's a copy of the Amendment on each members' desk and I think in sum-

marizing it could be more easily understood. The Amendment is an omnibus Amendment offered by the Committee on Government Administration and Policy. The Committee, through bi-partisan effort has worked very hard, just in the last two days, on this Amendment. The Amendment makes this Bill, which is strongly in the public interest, a better Bill. It is, however, a technical Amendment and in part deals with grammatical problem. The first thing the Amendment does is to take the concept of collective bargaining out of the "right to know law". In other words, the definitional section of meeting of a public agency, collective bargaining is not included. The Committee felt, after discussions with many parties, that the area of collective bargaining was distinctly different from any other governmental process or a process that governments engage in. It was thought that the give-and-take in negotiating sessions of collective bargaining was much too sensitive to require that this be done in public. It also could possibly result in violations of various labor Acts as an unfair labor practice. That is, if a public agency demanded that the negotiations take place in public and the bargainers for the employees did not want this. We further felt that the area of abuses that we're trying to get at by this sweeping Freedom of Information Act were not really in the area of labor negotiations. So for those reasons, we took out collective bargaining from a definition of a meeting of a public agency and so this Act doesn't deal at all with collective bargaining. The second change is in the definition of "caucus", which must be understood in order to determine what is a meeting of a public agency. A caucus, as defined by the Amendment, would mean a convening or assembly of the enrolled members of a single political party who are members of a public agency within the State or a political subdivision. What this means is, if members of a single party happen

to be members of a public agency and they are convening or assembling in caucus then that is not a meeting of the public agency and is not subject to the Right to Know or Freedom of Information Act. And then there are various other Amendments in line 52 and 53 which implement these subjects of collective bargaining and caucus that I just discussed. In line 133, the substitution of the word "AND" for the word "OR" is designed to exempt in the record section, records of pending claims against public agencies as well as claims that are actually in litigation. The Committee's intention was always to protect the work-product, if you will, of the attorneys file out of the municipality for the State and this would clarify it by saying "pending claims AND litigation". There is further language in the Amendment to exempt records, reports and statements of strategy or negotiations with respect to collective bargaining and I've already explained to you what the Committee felt on collective bargaining as far as it being done in a public meeting so this is consistent with that determination. In line 164, there is the word "TAX RETURNS" inserted in one of the exemptions for public records and it would read "records, tax returns, reports and statements exempted by federal law or state statute. Now the reason for this, the Tax Department called it to the Committee's attention, the State Tax Department, that under federal law, tax returns are to be confidential and did we not specifically exempt tax returns, we would probably have some problems so we did so, although, in my own personal opinion, that was the intention of the Committee all along when we said records, reports and statements exempted by federal law. In line 165, at the end of subsection b of section 3, we added, as a record that would be exempt from public inspection and copying, the language or communication privileged by the attorney-client relationship. It was clearly the intent of the Committee in its draft

of the Bill in the file, to include this but it was pointed out that there might be some questions. Specifically, the Office of Attorney General for the State had a problem in that they are the attorneys for every commission and department and their files, insofar as they contain privileged communications. In the Attorney General's office acting as attorney for any state agency which is a client, should and must be exempt from inspection. At the bottom of the first page of the Amendment, there is language concerning "notice" which is being proposed in this Amendment to clarify what type of notice a public agency must give if requested by any citizen in the State as to its regular or special meetings. And as far as any agency of the State, proper notice would be deemed it it were given in the Connecticut Law Journal or in the Legislative Bulletin. As far as a political subdivision of the State, which in essence is every municipality, the notice would be presumed to be proper if sent by 1st class mail to the address indicated in the request of the person, the written request of the person and when we discuss the Bill itself, perhaps that will have a little more meaning, the written request a person makes. In lines 564, 565 and 566, the Committee after due consideration decided to delete language that would have permitted the Freedom of Information Commission to award to a citizen who had taken an appeal reasonable costs and attorneys fees in the discretion of the Commission and these would be paid by the public agency. We removed it because we were fearful of an amendment or amendments that were discussed with us that would have made it a two-way street. In other words, that the citizen, if it were the discretion of the Freedom of Information Commission, would have had to pay the State's or the Municipality's attorneys fees. It was our feeling that if this amendment were introduced, and if it passed that this would have a chilling effect upon the exercise of the rights

granted under this Act by ordinary citizens and rather than risk that, we determined after much consideration, to remove that provision. Continuing on to the middle of page 2 of the Amendment is language that would make the Commission an autonomous body within the Office of the Secretary of State for fiscal and budgetary purposes only. This was suggested to us by the Appropriations Committee. This is in no manner to say that this is part of the Secretary of State's Office and that the Freedom of Information Commission is not totally independent. It's only for budgetary purposes. In Section 19 of the file copy, there is an Amendment to indicate that Section 15 and Section 18 of the Act will take effect on July 1, 1975 and the file copy goes on to say that all other provisions will take effect on October 1, 1975. Those sections deal with the establishment of the Freedom of Information Commission and the appropriation that is indicated in the fiscal note in the file copy of \$10,000.00 in the coming fiscal year which has been budgeted. Those will take effect on July 1st. Mr. Speaker, this Amendment, as I indicated, strengthens a good Bill and it is strongly in the public interest. I move adoption of the Amendment.

THE SPEAKER:

Will you remark further on adoption of House Amendment Schedule "A".

The lady from the 108th.

REP. OSIECKI (108th):

Mr. Speaker, may I ask a question of the proponent of the Amendment please? Mr. Burke, in line 19 of the Amendment, I'm sorry line 15 of the Amendment, where you insert strategy or negotiations, within the body of that sentence are contained the words, "public agency". Public agency on the other page is described or defined as including legislative office. Would you please define for me "legislative office" whether it is a collective body or an indivi-

dual office.

REP. BURKE (56th):

Through you Mr. Speaker, the intention is that it would be a collective body. You can't just read in the file copy the definition of public agency and get the concept. You have to read it with the definition of meeting which, when it's a multi-member public agency, then it's the convening or assembly of a quorum of the public agency.

THE SPEAKER:

The lady from the 108th has the floor.

REP. OSIECKI (108th):

I have read the whole definition but specifically, you do say, "or legislative office" and then I will assume that it means legislative office collectively is a public agency. Thank you.

THE SPEAKER:

Will you remark further on the Amendment? The gentleman from the 107th.

REP. MANNION (107th):

Mr. Speaker, I rise in support of this Amendment. I think one point that Mr. Burke brought out was very, very important. That this Amendment is a bi-partisan Amendment of the Committee. Many aspects of the Amendment are technical. The Amendment strengthens a good Bill and I urge its passage. Thank you.

THE SPEAKER:

Will you remark further on the Amendment? If not, the question is on its adoption. All those in favor will indicate by saying "AYE". Opposed? The Amendment is adopted and ruled technical. Will you remark further on

the Bill as amended by House Amendment Schedule "A"? The gentleman from the 56th.

REP. BURKE (56th):

Mr. Speaker, the Clerk has another Amendment, LCO #7744.

THE CLERK:

House Amendment Schedule "B", LCO #7744: In line 110, after the word "DRAFTS" delete the comma and insert in lieu thereof the word "OR" and after the word "NOTES" delete the word "OR" and insert in lieu thereof an opening bracket. In line 111, delete the bracket after the word "memoranda".

THE SPEAKER:

You have the Amendment, the gentleman from the 56th.

REP. BURKE (56th):

Mr. Speaker, this Amendment deals with the exclusionary section from what is otherwise a public record. The overall concept of the Act is that not only are all meetings less specifically exempted, but likewise all public records are open to public inspection and copy unless they are specifically exempted. The Amendment deals with a record that shall not be construed to require disclosure and it would, in reading it with the file copy, in the file line 110, indicate that preliminary drafts or notes provided the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure. This Amendment only serves to strengthen the Bill and I point out to the members of this House that I know of no other section in this rather lengthy document that engendered as much controversy as this section. The file copy includes a provision for inter-agency or intra-agency memoranda, as well as preliminary drafts and notes. The Committee has labored over this section in the last two days and finally

concluded that it should recommend deleting inter-agency or intra-agency memoranda as an excluded public record. Now this represents a compromise from the existing law which does have a provision for intra-agency and inter-agency memoranda or letters, but it has a blanket phrase in the existing law, Those memoranda dealing solely with matters of law or policy and we found in our hearings and in our deliberations on this Bill that this was a carte blanche for a public agency to close its file so we eliminated that. The Bill would cast the burden of proof in this amended section upon the public agency to determine that the public interest clearly in withholding the documents, in other words the drafts and notes, clearly outweighs the public interest in disclosure. Mr. Speaker, this is a good Amendment and I move for its passage.

THE SPEAKER:

The gentleman from the 148th.

REP. ABATE (148th):

Thank you Mr. Speaker. I too, rise in support of House Amendment "B". In removing from the exemption inter-agency or intra-agency memoranda or letters, what was a good Bill becomes a very good Bill. Such memoranda or letters are important to determining - agency action as legislative history is to an interpretation of a legislative enactment. By allowing an individual to have disclosed to him certain inter-or intra-agency memoranda or letters, he's going to be placed in a position of knowing why a public agency has taken a certain action or why it subscribes to certain activity. I commend the Committee for submitting House Amendment "B" and I urge its adoption.

THE SPEAKER:

Will you remark further on House "B". The gentleman from the 119th.

REP. STEVENS (119th):

Just for clarification, so that I understand the Amendment, I'd like to ask through you Mr. Speaker, several questions of the gentleman who reported out the Amendment. Through you Mr. Speaker, LCO #7744 has the effect, as I understand it, of taking inter-and intra-agency memoranda out of the exclusionary section of the file copy. Is that correct?

REP. BURKE (56th):

Yes Mr. Speaker, that is correct.

REP. STEVENS (119th):

Through you Mr. Speaker, would the Governor's Office be an example of an agency that would be covered by this Amendment?

REP. BURKE (56th):

Through you Mr. Speaker, yes.

REP. STEVENS (119th):

Through you Mr. Speaker, if we adopt this Amendment, could I, as a citizen, obtain copies of memoranda between the Governor and individuals in the Governor's Office who might be responsible for different segments of state government?

REP. BURKE (56th):

Through you Mr. Speaker, yes, unless they were preliminary drafts or notes.

REP. STEVENS (119th):

Through you Mr. Speaker, the same would be true on a non-note or preliminary draft of a memorandum between a mayor and members of city government. Is that correct?

REP. BURKE (56th):

Through you Mr. Speaker, yes.

REP. STEVENS (119th):

Through you Mr. Speaker, would I, as a citizen, be entitled to a final memorandum between the Speaker of the House and the Majority Leader?

REP. BURKE (56th):

Through you Mr. Speaker, if it related to their governmental functions I would think so.

REP. STEVENS (119th):

Thank you.

THE SPEAKER:

The gentleman from the 92nd.

REP. WEBBER (92nd):

Through you Mr. Speaker, a question to the gentleman from the 56th. In line with the questioning developed by Rep. Stevens, could one get information from a parole board? I speak particularly of the applicant for parole. Could he receive, under the terms of this Amendment, or the Bill, the detailed information as to his status and why from a board of pardons or parole board?

REP. BURKE (56th):

Through you Mr. Speaker, there is a general exclusion in the Bill itself concerning records, reports and statements exempted by state statutes. There is a further exclusion concerning records of law enforcement agencies. It would be possibly, I guess on my part, but I would say that, because I don't know what the parole statutes say, we certainly didn't peruse every section of the General Statutes in dealing with this Bill. But if they are privileged and exempt from inspection, as they now exist, then they would continue to

be so under the blanket exclusion, if you will, on lines 164 and 165 of the file copy.

THE SPEAKER:

Will you remark further on the Amendment? The gentleman from the 107th.

REP. MANNION (107th):

Just very short Mr. Speaker, I would just like to say one thing. This Amendment makes a strong Bill stronger. Thank you.

THE SPEAKER:

Will you remark further on adoption of House Amendment Schedule "B". The gentleman from the 119th.

REP. STEVENS (119th):

Mr. Speaker, I just rise to request that when the vote be taken, it be taken by roll call.

THE SPEAKER:

The motion is for a roll call vote on adoption of House Amendment Schedule "B" and all those in favor will indicate by saying "AYE". In the opinion of the Chair, a sufficient number is supportive of the motion and a roll call, when appropriate, will be ordered on House Amendment Schedule "B". Will you remark further on House "B". If not, an immediate roll call will be ordered. Will the members please be seated. The question is on adoption of House Amendment Schedule "B" and a roll call has been ordered. Will you remark further on House "B". The gentleman from the 70th.

REP. HANLON (70th):

Mr. Speaker, inasmuch as the Amendment directs itself to inter-agency memoranda, through you Mr. Speaker, may I propose a question

to the proponent of the Amendment? Would a memorandum between the Governor's office and the office of the Speaker of the House be subject to disclosure?

REP. BURKE (56th):

Through you Mr. Speaker, yes.

REP. HANLON (70th):

Through you Mr. Speaker, would a memorandum between the Governor's office and to the Majority Leader of the House be subject to disclosure?

REP. BURKE (56th):

Yes, if it related to a governmental function.

THE SPEAKER:

Will you remark further on House Amendment Schedule "B"? The gentleman from the 144th.

REP. SERRANI (144th):

Mr. Speaker, just one brief question. Would this require state legislators and other state officials who have memos to keep them on file for a certain period of time for disclosure when and if it was requested?

REP. BURKE (56th):

Through you Mr. Speaker, as I said earlier, when we deal with the legislative branch of government the intention of the Bill is to deal with the legislators collectively. I'm not at all certain the Bill deals with the files of individual legislators.

THE SPEAKER:

Will you remark further on House "B". The gentleman from the 123rd.

REP. BAEHR (123rd):

Mr. Speaker, I'd like to pose a question to the proponent of the Amendment. Mr. Burke, to what degree does there or would there continue to exist if the Amendment is adopted, a privileged status condition in communications between members of the executive branch of government, both state and local government, and the legislative branch and the members thereof.

REP. BURKE (56th):

Through you Mr. Speaker, as I have indicated on several occasions, the Committee did not make an attempt, nor do I possess sufficient knowledge of the entire General Statutes to know what records, reports and statements are exempted from public disclosure. But I think we must not lost sight of the fact, and perhaps we have because we've taken up this encompassing Amendment before we've taken up the Bill, that the intention of the Freedom of Information Act is to make every public record and every public meeting open to the public at all times with certain specified exclusions. I don't think I can answer it any more precisely than that.

THE SPEAKER:

Will you remark further on House "B". The gentleman from the 113th.

REP. BELDEN (113th):

Thank you Mr. Speaker, a question please through you to the proponent of the Bill, amendment excuse me sir. If the Speaker of the House were to send a memo to an individual legislator could you tell me if that would be public record under the Amendment?

REP. BURKE (56th):

Through you Mr. Speaker, I don't think I care to speculate on that situation. I might point out to Rep. Belden that the Bill establishes a Freedom of Information Commission, it establishes a Judicial Review from

the decisions of that administrative agency and there are going to be numerous interpretations no doubt of this Bill. That will probably be one of them.

REP. BELDEN (113th):

If I might sir, one additional question. In your opinion, would the Speaker of the House be, in essence, the agency of the Legislature as defined under the Bill?

REP. BURKE (56th):

Through you Mr. Speaker, I don't understand the question.

REP. BELDEN (113th):

In Section 1 sir, through you Mr. Speaker, agency as defined in Section 1. Is the Speaker, in essence, the agency of the Legislature?

REP. BURKE (56th):

Through you Mr. Speaker, public agency or agency have the same meaning. They're used interchangeably throughout the Bill. Public agency or agency means any executive, administrative or legislative office of the State. Were one to read that Bill to consider that the office of Speaker of the House is a legislative office of the State, the answer is yes.

THE SPEAKER:

Will you remark further on House "B". The gentleman from the 34th.

REP. O'NEILL (34th):

Mr. Speaker, I rise to support House "B". I think it's been very well described by the proponent of the Amendment that the whole thrust of the Bill or certainly the thrust of the Amendment is to bring open government and that's what we're here to do and I think it is and I think we have to accept House "B" and vote for its support.

THE SPEAKER:

Will you remark further on the Amendment? If not, will the members please be seated and the staff come to the Well. The machine will be opened. Have all the members voted and is your vote properly recorded? If so, the machine will be closed and the Clerk will take a tally.

THE CLERK:

|                                  |     |
|----------------------------------|-----|
| Total Number Voting.....         | 142 |
| Necessary for Adoption.....      | 72  |
| Those voting Yea.....            | 139 |
| Those voting Nay.....            | 3   |
| Those absent and not voting..... | 9   |

THE SPEAKER:

House "B" is adopted and ruled technical. Will you remark further on the Bill as amended by House Amendment Schedules "A" and "B". The gentleman from the 56th.

REP. BURKE (56th):

Mr. Speaker, remarking on the Bill as amended and, incidentally, may I ask, under the rules, that Amendments "A" and "B" be printed in the Journal.

THE SPEAKER:

The Chair observes that the Amendments will be printed in the Journal pursuant to their adoption by the Chamber.

REP. BURKE (56th):

Thank you. Mr. Speaker and members of the House, I proudly rise in support of this historic and monumental legislation and in joining in bringing out the Bill with the distinguished Chairman of the Committee on Government Administration and Policy. The Committee has worked hard to present this Bill, which has the broad support of public officials, the media, citizens' lobby groups and most importantly, the public. The Bill before you is an

amalgam of some 21 proposed Bills and reflects the best features of many Bills. Without any exaggeration, the file copy is probably the 15th draft of what we thought was the final Bill in Committee and represents the diligent efforts of the Committee, the members of the Legislative Commissioner's Office and the Governor's staff. It is a well thought out Bill with each section cohesively bound to others. There have been two Amendments as you know, technical in nature, introduced. However, I would caution that there's a danger in any substantive tampering with the interlocking sections of this Bill for many reasons. Not the least of which is that it was a very difficult Bill to construct. Mr. Speaker and members of the House, we have the opportunity to enact today a broad and far-reaching Freedom of Information law. This Act will hold its own with any Right-to-know law in the nation, including the much heralded Florida Sunshine Law. Too much of government in Connecticut has been closed to the public inspection and knowledge. Secrecy has been the most convenient means of keeping power out of the hands of the people. If citizens are to understand and have confidence in governmental decisions, then they must be allowed to observe the processes by which these decisions are made. The public has grown deeply to mistrust government at all levels. This Bill will go a long way toward restoring public confidence in government because we will conduct the public's business in public and not in the back room. There should be no mistake about the legislative intent of this bill. All meetings of all governmental agencies on all levels and in all branches must be open to the public at all times with certain limited exceptions that I'll discuss with you in a moment. Similarly, all records of all governmental agencies shall be in the public domain with few and very precise exceptions. I think this General Assembly has truly demonstrated this concept of open government this session

with the adoption back in January of our rules and we're carrying it forth by enacting this type of legislation. The preamble that the Committee on Government Administration and Policy had originally proposed, but that the Legislative Commissioner's Office felt did not belong in the statute because Connecticut Statutes are historically - historically they do not have preambles, but this preamble well states the legislative intent and I'd like to read it:

"The Legislature finds and declares that secrecy in government is inherently inconsistent with the true democracy. That the people have a right to be fully informed of the actions taken by public agencies in order that they may retain control over the instruments they have created. That the people do not yield their sovereignty to the agencies which serve them. That the people in delegating authority do not give their public servants the right to decide what is good for them to know and that it is the intent of this Law that actions taken by public agencies be taken openly and their deliberations be conducted openly and that the records of all public agencies be open to the public except in those instances where superior public interest requires confidentiality."

Mr. Speaker, I should now like to briefly detail the Bill, as amended. The Freedom of Information Act covers all branches of government. Executive, Administrative, Legislative and Judicial insofar as the Judicial-Administrative functions, except the Supreme Court of Connecticut and the Superior Courts. The reason these Courts were not included is that there is a grave constitutional problem in legislative rule-making for constitutional courts. These branches of government covered by the Act are in both State and municipal levels. There can be no mistake with this Act that it doesn't cover legislative bodies or some other boards and commissions as is the problem with the present Act. Meetings

in the Act are broadly defined and if you want to glance at lines 19 and following you'll see that it covers many hearings or other proceedings of a public agency and any convening or assembly of a quorum of a multi-member public agency, whether in person or by electronic equipment to discuss or act upon a matter over which the public agency has supervision and control. The definition goes on to indicate that a meeting does not include a chance meeting of members of an agency or a gathering for social purposes when it is neither planned nor intended to discuss official business. A meeting does not include a caucus as is defined in the Amendment "A" of this Bill nor does it include sessions concerning collective bargaining. All meetings of all public agencies as I have said several times are open to the public except in five areas where there may be executive sessions and they are as follows: The discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee. Secondly, strategy or negotiations with respect to pending claims of litigation, matters concerning security strategy of deployment of security personnel or devices affecting public security. Discussion of the selection of a site or the lease, sale or purchase or real estate by a political subdivision of the State when publicity regarding such a construction would cause the likelihood of increased price. And the discussion of any matter which would result in a disclosure of the record section of this Act, in other words those sections that are not public information. A dramatic change from the current law is the method by which executive sessions can be invoked. They must not be upon an affirmative vote by two-thirds of those present and voting rather than a mere majority it must be taken at a public meeting for vote and must state the reasons for the executive session. I neglected to mention probably the most sweeping change in the present laws

is the fact that now only in five instances are there to be upon two-thirds vote, executive sessions. Now any public agency can merely vote by a majority and discuss anything and these are the abuses that this Act is designed to get at. Also, as I mentioned when speaking on the Amendment, all records of all public agencies are open to inspection and copying except in the 9 categories that are set forth in the Act. They may be briefly summarized as follows: The drafts or notes of any public agency, provided the agency is determined the public interest in withholding outweighs the public interest in disclosure. I would submit that, and it was the Committee's intent, that this weighing of public interest casts the burden on the public agency to show why the records should not be disclosed. Secondly, certain records of the law enforcement agencies. Records pertaining to pending claims and litigations. Trade secrets, test questions and scoring keys, contents of real estate appraisals, engineering or feasibility study estimates prepared for acquisition of public property, personal financial (inaudible) submitted for licensing qualifications, records and tax returns otherwise exempted by federal law or state statutes, communications privileged by the attorney-client relationship and records concerning collective bargaining. Now for the denial of anyone's right under this Act, there is a simple appellate process, there is the creation of a three-member Freedom of Information Commission. Anyone denied access to a governmental meeting or denied the inspection of records can file an appeal with this Commission. The Commission has a very important power that in its discretion, it can declare actions taken at illegal meetings null and void. This section of the Bill is patterned after Florida's so-called Sunshine Law and is really at the heart of this Bill, because this Bill says meetings shall be open and if they're not, then actions taken

there in violation of this Act after the administrative determination and if a factor, the judicial review will null and void the meeting. If we didn't have this Section in the Bill, all we'd be saying is that public meetings are open but if they're violated well then there is no real sanction. The appeal is a speedy process. The Freedom of Information Commission must hear it within 20 days of the filing of the appeal and they must decide it within 15 days after the hearing. And I would submit that this administrative commission would be a lot quicker than if they were a mere appeal to a court. But beyond the administrative level, there is a provision that any agreed party can seek judicial appeal to the Court of Common Pleas for the county or judicial district where the administrative agency is located. There are provisions in the Act for media and newspaper coverage of public meetings. There are sections concerning notice requirements of public meetings as to regular, special and emergency meetings. The General Assembly as to its regular, special and possible emergency meetings are exempted, but there is a mandate that the General Assembly shall establish by its own rules, notice requirements. Finally, there are criminal penalties provided for wilful destruction of public records and failure to obey Freedom of Information Commission orders and there are fines for the wilful denial of any rights created by this Act. As I indicated in speaking on the Amendment, except for the establishment and funding of the Freedom of Information Commission, this Act takes effect on October 1. Mr. Speaker, I strongly support this Bill and I move acceptance and passage of the Bill, as amended.

THE SPEAKER:

Will you remark further on acceptance and passage, as amended by House "A" and House "B". The lady from the 54th.

REP. GOODWIN (54th):

Through you Mr. Speaker, may I ask the proponent of the Bill some questions. These are not harassing questions, these are purely for information. I want to be sure that this Bill does not require public notice of every one of the literally hundreds of administrative meetings that go on in an organization like the University of Connecticut every day. To decide whether you'll paint the dormitory walls every six years or every seven years or to decide whether you really are going to have, from the basis of your projections, three thousand dormitory vacancies or only 2900 dormitory vacancies, a thing which affects efficient targets and quotas. I see some difficulty in defining what is and what is not a public meeting here and I would very much welcome an answer to that question.

REP. BURKE (56th):

Through you Mr. Speaker, the Committee grappled with this consideration. I can use this as an example, although you've given a very good example, the intention of this Act is not, for instance if there were a meeting of the building inspector and his assistant discussing the plans for the day in his office to make this within the purview of this Act and I think it's an analagous situation to your decision whether or not to paint the dormitory walls. I might say that this Act is by far not perfect, it's a hard thing to construct something like this and there'll probably be many questions that will arise, but they'll be determined by the administrative and judicial review.

REP. GOODWIN (54th):

Another question. There was a time, only a very few years ago when there were a lot of students on the campus of the University of Connecticut who would have loved to be able to get their hands on the security contingency plan.

Would that be an open document under this, this was during the troubles on the campus.

REP. BURKE (56th):

Through you Mr. Speaker, it would definitely not be a public document and I think it's excluded, almost specifically in both from public meetings and records.

REP. GOODWIN (54th):

Thank you Mr. Speaker, one final question. This Commission will have the power to develop regulations, will it?

REP. BURKE (56th):

Through you Mr. Speaker, I think not. It is a quasi-judicial agency and its powers and functions are aptly spelled out in the Act. There's no specific provision giving it the right to promulgate regulations and so unless it has that power by other statutes, I would think not.

THE SPEAKER:

Will you remark further on the Bill, as amended. The gentleman from the 6th.

REP. RITTER (6th):

Thank you Mr. Speaker, through you if you will, a question to Rep. Burke. Rep. Burke, could you share with us please the Committee's reasons for excluding caucuses?

REP. BURKE (56th):

Through you Mr. Speaker, there was considerable consideration given to this. There were earlier drafts of the Bill that did not exclude caucuses, it was the feeling of the Committee that a caucus by the conventional understanding of that term and by the definition in the Bill was primarily the trans-

action of party business and that the transaction of party business was not in the public domain.

REP. RITTER (6th):

Mr. Speaker, I will certainly support this Bill and I agree with Rep. Burke that it is a landmark Bill. I am - I will say that I am uncomfortable that we have excluded caucuses and next session I would certainly hope that we will have a Bill which would require that caucuses be open. I was among those in the Democratic caucus this year who voted against opening the caucus. I felt that it might serve a better public purpose to have a closed caucus. I have lived to recognize that I was wrong and I have lived to recognize that we would have much better legislation in my opinion, recommended and supported by the Democratic caucus if it had been open and it had been clear from the very beginning to everybody in the State who stood where on what in that Democratic caucus. But on balance, I hope everyone recognizes the importance of supporting this Bill.

THE SPEAKER:

Will you remark further on the Bill, as amended. The lady from the 108th, Rep. Clarice Osiecki.

REP. OSIECKI (108th):

Mr. Speaker, the Clerk has an Amendment, LCO #8596.

THE CLERK:

House Amendment Schedule "C", offered by Rep. Osiecki of the 108th: In line 32, after the word "agency" insert the following: "Except that when such public agency is entirely composed of members of the same political party, "meeting" shall include such a caucus."

REP. OSIECKI (108th):

I move adoption of the Amendment.

THE SPEAKER:

The lady from the 108th has moved adoption of House "C" and will you remark?

REP. OSIECKI (108th):

Yes, Mr. Speaker, speaking to my Amendment, I also will be speaking to the Bill. I congratulate the Committee for recognizing the need for freedom of information and clear air in government. And I remark to Rep. Burke's comments that the people's business belongs in the public and secrecy keeps government from the hands of the people, especially when he said that all meetings at all levels of all branches should be open at all times. Finding it necessary to point out an omission in the Bill, my Amendment addresses itself to that omission. Existing within our State, there are political subdivisions which contain legislative bodies which are made up entirely of one political party. This Bill does not yet address itself to a meeting of a legislative body which is not duly called, so therefore, is not open to the public. My Amendment will expand the definition of meeting to include a caucus when a legislative body determines that it shall hold a private meeting to conduct public business with no guests. I think that if you try to relate this Amendment to how it will be effective within the Bill, if you think of this General Assembly of a House of Representatives of 151 members being all of one political party. If you took your majority on the other side of the aisle and expanded it to 151 and you met in private, I think you would be indeed conducting the business of the public in private and I don't think this Bill is meant to allow that. If you reduce it to a local level and you take a town council which has total control in one political party handling the public's business, I believe any meeting of

that council, with the members of that council should be open to the public and I move adoption of the Amendment and I ask that it be printed in the Journal.

THE SPEAKER:

Pursuant to the lady's request, House Amendment Schedule "C" will be printed in the Journal. For further remarks on adoption of House "C", the gentleman from the 56th.

REP. BURKE (56th):

The Committee grappled with the purview of Amendment "C" and concluded, as I've explained in my remarks on the Bill, we are aware in the State of only two municipalities that fall within the - or that have legislative bodies entirely of one political party. It's to state the obvious that we had to be concerned with the other 167 towns as well. I think it's a fair statement that the Committee felt that it wanted to preserve the party caucus for discussion of party business and that when public issues were, if they were, discussed in party caucus, that it was merely to formulate a party position and it was not a transaction of public business. And I would further submit that if the occasion arose that public business was officially acted upon in caucus, that the appellate process, mandated by this Bill, would take care of that and for those reasons I oppose this Amendment.

THE SPEAKER:

Will you remark further on House "C"? The gentleman from the 119th.

REP. STEVENS (119th):

Mr. Speaker, through you a question to the gentleman who reported out the Bill. Is it not the intent of this legislation that debate on public issues by a body charged with the public duty take place in public?

REP. BURKE (56th):

Through you Mr. Speaker, as I indicated earlier, it was the intention of the Committee to preserve the integrity of a party caucus and that any discussions that would necessarily concern themselves with public issues certainly are not in caucus, official acts. They are merely a formulation of the party's position. I think the definition of caucus in the Bill, as amended thus far, speaks for itself.

REP. STEVENS (119th):

Through you Mr. Speaker another question. In a situation where a local legislative body was, in fact, all members of one political party and at a caucus say was held regularly on a Monday evening where the items on the agenda for the Tuesday public meeting were, in fact, debated and voted upon and where on Tuesday there were merely votes, would not the debate that the Monday caucus be debate on public issues by the body charged with implementing those issues at that level?

REP. BURKE (56th):

Through you Mr. Speaker, yes and I submit that the Bill has ways in which to deal with any abuses that might occur such as the distinguished Minority Leader pointed out.

REP. STEVENS (119th):

Through you Mr. Speaker, would the gentleman please refer to the line in the Bill wherein he believes the situation I have established could be dealt with.

REP. BURKE (56th):

Through you Mr. Speaker, I haven't got the line but it's an appeal if someone were to claim that this was a public meeting as the theoretical party

caucus that Mr. Stevens has suggested, then I would submit that an individual can take an appeal to the Freedom of Information Commission and that Commission and later the courts could determine whether or not the individual was correct.

REP. STEVENS (119th):

Through you Mr. Speaker, then is it the gentleman's answer and legislative intent that a caucus can, under certain circumstances such as I have described, in fact be a public meeting.

REP. BURKE (56th):

Through you Mr. Speaker, not a party caucus.

REP. STEVENS (119th):

Through you Mr. Speaker, then is it the gentleman's answer that a party caucus where the public issues are debated, voted upon and decided, and simply ratified by vote without debate on the following night is not subject to the Freedom of Information provided in this Bill?

REP. BURKE (56th):

Through you Mr. Speaker, I'm not prepared to speculate. I think that's something that'll have to be further determined by case lot.

REP. STEVENS (119th):

Mr. Speaker, speaking on the Amendment, I think it's apparent from the non-answer I just received, that there is a gap in this Bill and whether there's one, two, three, four or five communities in which this exists in the State of Connecticut, if the intent is as the gentleman proclaimed in speaking on the Bill, to allow the public to be in on the debate of their affairs, then why shouldn't everybody support this Amendment? If there is a community in Connecticut that one party controls, be it Republican or Democrat, and

they regularly debate the issues at a called party caucus and simply vote the next night on the decisions that pre-determined, how can anyone say they support this Bill and not say that that situation should be covered? I think the Amendment is addressed to an obvious gap and freedom of information should apply to 169 towns, not 168. It's a good Amendment and I would hope that it would be acted upon favorably.

THE DEPUTY SPEAKER IN THE CHAIR

THE ACTING SPEAKER:

The gentleman from the 78th.

REP. VICINO (78th):

Mr. Speaker, I would like to pose a question to Rep. Osiecki if I may, through you please. Is the town that you represent, Rep. Osiecki, one of the towns that fall in the category of being dominated by one political party.

REP. OSIECKI (108th):

Yes it is.

REP. VICINO (78th):

What party is that Rep. Osiecki?

REP. OSIECKI (108th):

The voters who have voted have selected the Democratic Party.

REP. VICINO (78th):

Another question through you please. Are you aware of the other two towns that are dominated by one political party?

REP. OSIECKI (108th):

Through you Mr. Speaker, I'm aware of one of them.

REP. VICINO (78th):

What town is that?

REP. OSIECKI (108th):

I believe it is New Britain.

REP. VICINO (78th):

Through you Mr. Speaker, and what party dominates that town?

REP. OSIECKI (108th):

Mr. Speaker, I'm not certain, through you.

REP. VICINO (78th):

When you said you were aware, through you Mr. Speaker, that there was another town and it was New Britain that was dominated by one political party?

REP. OSIECKI (108th):

Through you Mr. Speaker, I knew precisely the situation in the city I represent.

REP. VICINO (78th):

A question through you Mr. Speaker to Rep. Badolato. Rep. Badolato, do you know any towns in Connecticut that are dominated by one political party on their local legislative body?

REP. BADOLATO (23rd):

I'm sure New Britain is and I believe Bristol is also.

REP. VICINO (78th):

Thank you very much. Mr. Speaker, Bristol is another town that is dominated by one political party at this time and that party is the Democratic Party. New Britain is a town that is Democratic, I'm told, and so is Danbury. Now I don't know if there are any other towns in the State of Connecticut in addition to the three that have been mentioned that are controlled by one political party, but obviously you can see why and where this Amendment

was initiated. Now I understand that, by a previous Amendment, that is a town, for example, is divided on their local legislative body, and I'll make the example of a council being divided up in a 4 - 4 situation, that each party have a closed caucus. I would like to pose a question through you sir, if I may, to the proponent of that Amendment to ask if that is correct. Sir, is that correct, that if a local legislative body is divided and not dominated by one party, they may have their own political caucuses.

REP. BURKE (56th):

Through you Mr. Speaker, yes.

REP. VICINO (78th):

Would this also be true sir if the count was 14 and 1?

REP. BURKE (56th):

Through you Mr. Speaker, yes.

REP. VICINO (78th):

Thank you very much. Mr. Speaker, if a town can divide itself, if a legislative body can divide itself into caucuses and an example was made of 14 to 1 where 14 Republicans or Democrats may divide into a separate caucus then certainly I think if the town or city has dominated the party because it has been the choice of the people in that city, I think they should be allowed to prepare prior to the meeting. But to presume, as Mr. Stevens has, that they will vote, plan the entire meeting and that the actual meeting that takes place in public is a sham, I think is something that we can't speculate or we can't project will happen. For example, our town, I believe, to the best of my knowledge, does not meet in caucus prior to the regular council meetings monthly. In fact sir, our town allows debate from the public during the legislative body debate which is something quite unique. So we have, I think, one

step beyond open government where we have full town participation in a town of 56,000 and we're operating as a local town meeting of a small town of 500 or 1,000. I think closed caucuses are necessary, not necessarily as the Minority Leader suggested, to pre-plan, to vote before the fact, but to discuss issues that are important and to make arrangements and plans as to how they could be best presented to the public. If you can do it in a situation where a council or a body of aldermen are divided, then why cannot we do it when the town is dominated by the choice of the people of that town by one party. And I would like you to keep in mind that the three parties, the three towns that have been mentioned here are Democratic towns and I would like you to keep in mind, members of this Chamber, from where and whom the Amendment is offered.

THE ACTING SPEAKER:

The gentleman from the 87th.

REP. DEMENNATO (87th):

Mr. Speaker, I rise to oppose this Amendment because I think that the intent here, in the Bill as it now stands, is that if a citizen supposes that debate and voting has taken place in a closed caucus he has the apparatus available to him in the Bill for regress of grievances. The whole matter here is whether you divide or not, if you have 14 and 1 or 10 and 5, any type of combination thereof. If you go into seclusion, call it by whatever name you want and discuss public business, the citizen has a right to object. And I think that that's the answer, the Bill as it stands now provides for recourse to the citizen and I don't see any need for this Amendment. It will only confuse matters.

THE ACTING SPEAKER:

The gentleman from the 113th.

REP. BELDEN (113th):

Thank you sir. I would like at this point to add another town to that list of complete political domination. I do not at this point cast any aspersions, but I will say that we have a Democratic mayor, we have 8 Democratic aldermen, our corporation counsel is also the Chairman of the Democratic Town Committee. Now in the midst of a meeting, an aldermanic meeting, it would appear to me, under the law as presently written without this Amendment, that the aldermen could call a caucus and go into the next room and caucus. Where there is a 14 - 1 relationship or 10 - 5 or whatever the case may be, at least there is an opportunity for debate in the public sector of the meeting. I urge passage of this Amendment.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 109th.

REP. WALKOVICH (109th):

Mr. Speaker, I come from one of these towns who has complete control of the legislative body by one party. They have been elected in this manner for the last four years, that is two terms. I believe that this has been the right of the people to elect these representatives as representative of the feelings of the people of this town. I believe if we adopt this Amendment today we are disallowing the right of any political party who may be the complete legislative body of that town, the right to conduct their own political party's business. Thank you Mr. Speaker.

THE ACTING SPEAKER:

The lady from the 108th.

REP. OSIECKI (108th):

Mr. Speaker, as long as I was questioned I would like to speak for

the second time. I'd like to first address my comments to the immediately previous speaker. I believe that the voters had every right to elect all of their representatives in one party, just as well as I believe they have the right to know what goes on. Those very same people who elected these representatives are being denied the right to participate in a meeting of their own legislative body which is a dress rehearsal for the next night's meeting. I congratulate Rep. Vicino on his council's willingness to include the public and the people who elected his council to participate in the legislative process. This Amendment does come from me and it doesn't come from me for the Republican Party or for the Democratic Party. It comes from me for the people of the City of Danbury and any other city in the State today or next year who are denied the opportunity to participate in the legislative open meeting because one political party has complete control. I still support and hope for your support of this Amendment.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 6th.

REP. RITTER (6th):

Mr. Speaker, I rise to support this Amendment. My only regret is it doesn't go far enough. I don't think it should be limited to those situations in which it's only one party represented on the council or other governmental body. My own experience in 17 consecutive years of elected office is that unfortunately, most major political decisions are made in caucus. I think the quality of those decisions would be upgraded considerably if the public were part of that process. That clearly is the situation in this session of the General Assembly in my opinion. I would hope that this would not be considered a party matter. I believe that this is required, not only on a local level where there is a one-party government,

but it certainly is most required there and although this is a limited Amendment, it certainly seems to me to be fully worthy of our support.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 143rd.

REP. MATTHEWS (143rd):

Mr. Speaker, very briefly, it seems to me sir that Mr. Vicino's community has an openness about it and provides the opportunity for the public to come into their meetings that there could be absolutely no reason for him objecting to this Amendment since his community already is involved in this and if he does not agree that this is a good Amendment it would appear that he then is saying that in his community, at some point when they decide they do not wish to let the public come in, then that group will say "no more are you permitted to come in freely". Certainly that seems to be rather an arbitrary conclusion.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 23rd.

REP. BADOLATO (23rd):

Mr. Speaker, to the gentleman from the 143rd, I guess he misunderstood Mr. Vicino. He didn't say that a caucus in Bristol is open to the public, he said that a council meeting is open to the public and the public is permitted to participate. Certainly they do have caucuses and certainly they do have a private caucus. I don't know how anyone here could say that it makes a difference whether a caucus is comprised of 14 members of a 15 member body or a caucus is comprised of a 15 member legislative body with no one from any other political party involved. It doesn't make any difference and it doesn't make any difference whether you have a caucus of 8 out of 15 and 7 are of the other party and 8 hold

a caucus of their own, the majority is still there and decisions will be made in those caucuses. So that if you're talking about opening it up, you ought to open it up for your meetings maybe. I don't agree, I think that you will be driving people underground. There's nothing preventing a legislative body that's comprised of one party from meeting for dinner and not call it a caucus and have discussions as to what's going on. Even if this were to pass, is that what you want? If you want open government, I think you ought to deny this Amendment, reject it and allow a caucus to be held so that people will know that there is a caucus. So that the press will be there and wait for responses from those that attended that caucus after the meeting to find out what happened as they do here. They know exactly what happened after the meeting, but the people that attend that caucus are free to express themselves as they will without fear or favor. I think that this is a bad Amendment, I think it's an effort on the part of some of the people in this House probably to kill the sunshine Bill. If that's your effort I hope you don't succeed on this Amendment.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 62nd.

REP. POST (62nd):

Thank you Mr. Speaker. I think the sunshine concept is a glorious concept and one worthy of the State of Connecticut and I hope we adopt it. It may prove to be embarrassing to some who sit in municipal meetings and say things that would otherwise not say if the meetings were held in executive session. I'm sorry that we have the proposal to exempt caucuses. This Amendment raises a problem for us. On one hand we've decided to allow caucuses to be held secretly or in executive session, on the other hand we're declaring ourselves in favor of open government. In rare situations, apparently in 3 or 4

communities in Connecticut, there is a conflict because caucuses also equal the local municipal body. So we have to choose which is the greater, more important priority. Executive secret caucuses or open government. I think that the sunshine law should be adopted, I think the far higher priority is to have government conducted openly and, in those rare instances when the town is controlled by a single party and we have to choose between secret caucuses and open government of elected bodies, I hope we choose in favor of the open sunshine concept. Therefore, I hope that the Chamber will support the Amendment.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 91st.

REP. SMOKO (91st):

Mr. Speaker, I'm rather torn on this issue. I'm a Democrat from the Town of Hamden. Yet one town dominated by one party has been overlooked in these discussions. The Town of Hamden right now has a Republican mayor, a Republican Town Clerk and 13 of the council seats are occupied by Republicans, all 13. Mr. Speaker and ladies and gentlemen, I recognize the right of those 13 Republican councilmen to meet and discuss party business, but I also submit to you ladies and gentlemen that should they display such arrogance as to try to extend that to the private consideration of all legislation coming before them as a legislative council then I say the people of Hamden will not tolerate that. I don't think we can mix the situation here to say that these 13 people cannot meet in private caucus to discuss party business. But I do submit to you, submit to you most strenuously, that any attempt to hide the conduct of town government in Hamden will not be tolerated by the citizens and they would not dare, not dare in any way to display such arrogance as to think that it would. Thank you.

THE ACTING SPEAKER:

Will you remark further? The lady from the 61st.

REP. HANZALEK (61st):

Thank you Mr. Speaker. Mr. Speaker I would like to speak in favor of the Amendment. I know the day has been long and it's going to be a lot longer. Perhaps many others would also like to speak on the Amendment and in favor of the Amendment to try to eliminate that I would ask that when the vote be taken it be taken by rollcall. I think it's an important Amendment, I think we should all vote on it publicly. Thank you.

THE ACTING SPEAKER:

The question is a roll call. All those in favor of a roll call signify by saying "AYE". I will try your minds again. All those in favor of a roll call, signify by saying "AYE". The Chair feels a sufficient number has indicated a roll call. Any further remarks? Any further remarks on House Amendment "C"? Will the staff please come to the Well, will the members please take their seats. The machine will be opened. Has every member voted? The machine will be closed and will the Clerk please take a tally.

THE CLERK:

|                                  |     |
|----------------------------------|-----|
| Total Number Voting.....         | 144 |
| Necessary for Adoption.....      | 73  |
| Those voting Yea.....            | 36  |
| Those voting Nay.....            | 108 |
| Those absent and not Voting..... | 7   |

THE ACTING SPEAKER:

House Amendment "C" is lost. The Representative from the 39th.

REP. MARTIN (39th):

Mr. Speaker, through you, a question to the proponent of the Bill. Rep. Burke, am I right in my assumption that in the event this legislation

passes and is signed into law that those areas that are now governed by local charter which allows participation by its citizens in the areas of general that this legislation addresses to will be set aside?

REP. BURKE (56th):

Through you Mr. Speaker, if I understand the question, if a charter provision is to the contrary would this Act govern over the charter provision?

REP. MARTIN (39th):

No Mr. Speaker, what I'm saying in essence is, if the charter should be more liberal and allow more participation in some areas of this Bill, will those acts be entirely set aside?

REP. BURKE (56th):

Through you Mr. Speaker, no. I think if there are more liberal provisions than those would govern except the certain areas that are not open to disclosure and in some of the public records areas could not be opened.

REP. MARTIN (39th):

A further question through you Mr. Speaker. In the Act, as I read it, it indicates that a more loosely defined area can be adopted or may be adopted. It makes no reference to what might be the present charter requirements. A case in point if I may. Within our charter requirements, we are required to allow participation by our citizens at all meetings of council, special or regular; all committee meetings prior to the time we deliberate the subject matter. This Bill makes no reference to allowing that participation. I would wonder if that would be set aside.

REP. BURKE (56th):

Through you Mr. Speaker, this Bill does not deal with participation in public meetings. It deals with attendance at public meetings.

REP. MARTIN (39th):

Well that's my point, Mr. Speaker, our local charter allows participation. This particular Act allows to be present only at the deliberation process. My question is, would this set aside specific areas that our charter allows a much broader participation by its citizens than this Act does.

REP. BURKE (56th):

Through you Mr. Speaker, if the charter were not more restrictive than the Freedom of Information Act, then I wouldn't see any problem. I still repeat what I said, I believe Rep. Martin is talking about participation, I assume he means public members asking questions of the city council in New London in being allowed to participate in that manner. This Act isn't addressed to that. It's addressed to whether or not the city council in New London could go into executive session.

REP. MARTIN (39th):

A further question if I may, Mr. Speaker. As I interpret the somewhat brief courtesy of the Act, in order to go into executive session it requires two-thirds of the members present and voting. Through you Mr. Speaker, in the event the (inaudible) of the City of New London, as a case in point, had to discuss with the legislative body a matter of utmost importance that had to be resolved that night so he could properly present the City's position in court the following day and only four members of the Council were present, which is a quorum on our legislative body and the vote to go into executive session was 2 - 2, how would we resolve that problem with our Director of Law without doing it in public forum which would allow opposition being known prior to the time the position was taken?

REP. BURKE (56th):

The Act speaks for itself, it says two-thirds of those present and voting.

REP. MARTIN (39th):

As I interpret the response Mr. Speaker, we would have to discuss litigation in open session which could be detrimental to our community.

REP. BURKE (56th):

Through you Mr. Speaker, not necessarily. There's a provision for when there is not a quorum of a public agency at a meeting for adjourning the meeting.

REP. MARTIN (39th):

Mr. Speaker, I specifically stated in my motion that a quorum constitutes in our community 4 members and if the vote was 2 - 2 in reference to executive session, we would have a legitimate quorum to conduct city business but would not have sufficient votes for executive session to consider what we might act on at a later time in the evening.

REP. BURKE (56th):

Through you Mr. Speaker, if that's in the form of a question, this Act requires an affirmative vote of two-thirds of those present and voting and if only 2 out of 4 vote for it, there could not be an executive session that evening.

REP. MARTIN (39th):

Mr. Speaker, as I understand your response to the question, if a legislative body consisting of 7 members were meeting in an authorized session and had 4 members in attendance and the Director of Law was to come to that legislative body and indicate that there was a matter of great importance that he had to discuss with the council and what he interpreted as the necessity for

executive session and we were to vote on whether we would or would not go into an executive session and we were to have a 2 - 2 vote and we could not go into executive session, the only alternative would be to discuss this confidential business on an open floor. Is that a fair analysis of the response?

REP. STOLBERG (93rd):

Will the gentleman yield?

REP. BURKE (56th):

Yes, I yield.

REP. STOLBERG (93rd):

Another alternative would be for any one of the four members to absent himself, leaving no quorum.

REP. MARTIN (39th):

Through you Mr. Speaker, I don't understand how that would solve the problem. We need a quorum of 4 in order to function. We need 3 out of 5 in order to be able to go into executive session. What would the abstention of one member, which will reduce us to no quorum going to accomplish?

REP. STOLBERG (93rd):

I believe the gentleman was talking about the difficulty of dealing with matters in open session. This would obviate the matter of dealing with anything in open session because there would no longer be a quorum necessitating an open session.

REP. MARTIN (39th):

As I understand the response Mr. Speaker, through you, the suggestion is that one of the members abstain from voting and therefore only two votes will be required to have two thirds?

REP. STOLBERG (93rd):

No, I'm not sure that, again I would yield to Mr. Burke's answers before that these are matters to be dealt with by the Commission. My point simply is if there is a problem in dealing with something in open session in the instance mentioned by the gentleman from the 39th, one of the members can absent himself, no longer leaving a quorum to deal with business in an open meeting if he objects to that open meeting.

REP. MARTIN (39th):

I appreciate the answers to the question. It is not responsive to the question but I appreciate it. If I may go on Mr. Speaker, through you. Through you to Mr. Burke the proponent of the Bill. In the area of notification meetings and regular meetings as so designated, in the event the appropriating authority of my community, which consists of the legislative body and the board of finance notifies each and every member under the requirements of this Act as to when the meeting will be constituted and they arrive at the meeting and their work session continues until 11:30 and they find they have other business to conduct in the same area, would they be required to adjourn this meeting, recess this meeting or would they have to start all over again. A case in point, we are now presently allowed under our charter to recess from time to time for the continuation of that previous meeting. Would this still be allowed?

REP. BURKE (56th):

Through you Mr. Speaker, this is a special meeting Mr. Martin?

REP. MARTIN (39th):

That is correct.

REP. BURKE (56th):

Through you Mr. Speaker, at a special meeting the Act says that no

other business shall be considered by the public agency. However, there is a provision in here for adjourning any meeting and so it could be adjourned.

REP. MARTIN (39th):

Then as I interpret it, through you Mr. Speaker, if a legislative body is meeting in regular or special meeting and find that the specific subject matters in the area of a special meeting cannot be completed on that particular evening, they can recess to another time certain or subject to the call of the chairman of the meeting. In the area of a regular meeting, they may recess to another time subject to the call of the chairman of that meeting if they so desire. Is that correct?

REP. BURKE (56th):

Through you Mr. Speaker, that is correct, providing that the agency complies with the adjournment provisions of the Act, which are contained in Section 8, lines 338 and following, which provides for similar notice as must be given for the special meeting in the first place.

REP. MARTIN (39th):

Through you Mr. Speaker if I may, so in essence as I interpret the response, we cannot presently function in the future as we function presently, where we can recess by a majority vote to a time certain. We have to now give notification in written form to meet the requirements of this Act.

REP. BURKE (56th):

Through you Mr. Speaker, yes.

REP. MARTIN (39th):

Then as I understand the response to the question Mr. Speaker, if a regular meeting of a local legislative body, and I will use my local legislative body as a for instance, the charter requirements are that that legislative body

meet on certain dates. First and third Mondays of the months for instance. And if they're in the process of meeting and they find that they cannot complete the agenda for that evening, they can no longer recess that meeting subject to the call of the mayor to pick up the uncompleted work load or recess that meeting to a time certain to complete that uncompleted work load, they would have to adjourn the meeting, issue a special call and a notification or continue to recess it but still issue a special call by notification. Is that a correct analysis of the response to the question, through you Mr. Speaker.

REP. BURKE (56th):

Through you Mr. Speaker, I'll quote from the Act: Beginning on line 350, "a copy of the order of the notice of adjournment shall be conspicuously be posted on or near the door of the place where the regular or special meeting was held within 24 hours after the time of adjournment. When an order of adjournment of any meeting fails to state the hour in which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, law or other rule."

REP. MARTIN (39th):

If I may Mr. Speaker, an additional question. Under the charter of the City of New London, in case an emergency exists within our community, the mayor of our city can call the council to order at any given time, at any given place for the purpose of attempting to attain from the legislative body by a majority vote the emergency powers that he needs to act immediately. Now this very well could have to take place anywhere between an hour to two hours, depending on the state of emergency. Would this still be allowed under this Act the way it's allowed under our present governing body charter on a city level, through you Mr. Speaker.

REP. BURKE (56th):

Through you Mr. Speaker, there is a further provision for emergency meetings and I'm looking for it if you'll indulge me. Through you Mr. Speaker, I can't put my finger on the section of the Act but I could answer it in a general way and say that any provision as to emergency or special meeting must comply with this Act and a local charter is different, then it would have to comply with the Act.

REP. MARTIN (39th):

Mr. Speaker, I haven't had the knowledge or the background of experience to interpret this Act in the depth that it should be interpreted but I've read it somewhat thoroughly and I have some little knowledge of the requirements of responsibilities of local legislators in the area of hospital emergency meetings I can find no where in this Act granting to a local legislative body the sort of autonomous power they need to act immediately in the event of an emergency. I could visualize a situation happening because of hurricanes, national disasters, many other things when the mayor would have to almost immediately get the authority of the legislative body by a majority of its members in order to function. If the State declares a state of national emergency in our city and be able to appeal to the governor of the state for the kind of assistance needed under that national emergency. We've had situations in our town in the past, the one that comes to mind immediately is 1938, the hurricane when we were almost wiped out and we had to declare almost immediately, a state of martial law and bring into the community, national guard to patrol our streets because we were totally cut off from the rest of the community. I can't find in this Act where that sort of legislative authority still remains with the legislative body. It seems that we're going to be leaving that kind of authority, if it becomes an

authority in the form of regulations that will be drafted by a commission.

I think the Act is a good act. I think it goes to the area of opening up government which I have no objection to but I am somewhat hesitant about opening up government to the degree where you tie the hands of the people who are locally the local legislators, or elected to represent that body. It's going into our city charter and for all purposes and intent, we no longer have a city charter. Most of the areas that you mentioned in this particular Act with reference to "right to know" my community recognized the need in 1921 not 1975. We can't conduct a public meeting of any of our city boards and agencies or any of our legislative bodies without giving the citizens of our city a right to participate prior to the time we deliberate on the subject matters on the agenda. This Act doesn't allow any participation, it gives the right to know, it gives the right to go into various documents and have a right to peruse and get copies of it. It gives no right to participate. So in essence, if a community does not allow participation by their local people pursuant to its charter, this does not broaden participation. I think it's an area that you should probably address yourself to. I don't know what I'm going to do on this Bill when it comes to a vote. I have not been satisfied as far as I'm personally concerned with the answers. I think the Bill goes a long way to correct many, many injustices that our community and citizens of our state have suffered under but I think it goes a long way to take away from the local legislative body the kind of authority they need to function. I would mention in passing that the proponents of the Act and the drafters of the Bill saw fit to not impose these same regulations on themselves although they're proposing the Bill and they think very highly of it, I would ask you to wonder out loud for yourself if you found yourself in a situation where you could deal with an emergency here as we now are

able to deal on a local level and if somebody can point out to me in this Bill where we have that authority and it remains, I'd be most happy to hear it but I can't find it and I would respond by asking Mr. Burke again, if I may, if I have misinterpreted the Act. If I do, I apologize.

REP. BURKE (56th):

Through you Mr. Speaker, I'm sorry I couldn't provide you Mr. Martin with the section before, I've found it now and I think it will go a long way to cure any doubts you might have, especially in the area of emergency meetings. On line 279 and following, the Act indicates that provided in the case of an emergency any special meeting may be held without complying with the foregoing requirement of the posting a notice, but a copy of the minutes of every such emergency special meeting, adequately setting forth the nature of the emergency and the proceedings occurring at the meeting shall be filed with the Secretary of State or the Clerk of the subdivision, not later than 72 hours following the holding of the meeting. So, specifically, in response to your question of can you still hold emergency meetings, I believe the answer clearly is yes and I'm sorry I couldn't find it earlier.

REP. MARTIN (39th):

Through you, just one additional question. Mr. Burke, is there a definition in the Act as to what constitutes an emergency?

REP. BURKE (56th):

I don't believe so, through you Mr. Speaker, but emergency would be a question of fact in any case litigated. I would think that a municipal official or legislative confronted with what they deemed an emergency would be well justified in what they call an emergency special meeting and if later questioned well so be it but it's not specifically defined in the Act.

REP. MARTIN (39th):

Through you Mr. Speaker, I'd like to express my appreciation to both you and Mr. Burke for the responses. Thank you.

THE ACTING SPEAKER:

Will you remark further? The gentleman from the 20th.

REP. MATTIES (20th):

Mr. Speaker, a question through you if I may. Starting on line 29, there is a broad definition of what a caucus is, but I do not see any limitations so I'd like to ask a question. What number of people would be required to constitute a caucus?

REP. BURKE (56th):

Through you Mr. Speaker, I would submit that that would be determined by the rules of the caucusing body.

REP. MATTIES (20th):

A further question Mr. Speaker, through you. Could 4 or 5 members of the same political party decide to hold a caucus?

REP. BURKE (56th):

Through you Mr. Speaker, I think that also would be determined by the rules of the political caucusing body.

REP. MATTIES (20th):

One more question Mr. Speaker. I also see no limitation as to the frequency of caucuses. Is there anything in this Act that limits the frequency of caucuses?

REP. BURKE (56th):

Through you Mr. Speaker, this Act does not deal with caucuses and I think that some of us, members of this Assembly, have lost sight of that. It

merely includes it in a definitional section. No, there is no limitation on frequency of caucuses.

REP. MATTIES (20th):

Thank you. Mr. Speaker, I disagree, I think it does deal with caucuses, it specifically excludes them, but I contend that that is not only a loophole, it's a barn door because with no limitations, I see no restrictions on two members of a similar party deciding to caucus at any time which, as I understand the Act, excludes anything that takes place in that caucus becoming public. And because I think, if I may just one more through you Mr. Speaker, if the gentleman bringing out the Bill differs with that, I would appreciate knowing it, what I just stated.

REP. BURKE (56th):

Through you Mr. Speaker, would you repeat your statement?

THE ACTING SPEAKER:

The gentleman from the 20th, would you please reframe your question.

REP. MATTIES (20th):

My understanding is that a small group of people, down to 3, 4, or 5, could decide to call a caucus at any time and anything that they discuss in that caucus would be their own private business that would not be public information.

REP. BURKE (56th):

Through you Mr. Speaker, a meeting of a multi-member public agency as defined in terms of a quorum so that's a partial answer to the question. A further answer would be mere speculation on my part. I stated earlier that the intention of this Bill was that party business is usually discussed in caucuses. The Bill when it comes to meetings talks about, although it doesn't say official, discussing or acting upon matters over which the agency has supervision and

control. As I stated earlier.....

REP. MATTIES (20th):

Mr. Speaker, that answers it, thank you. Mr. Speaker, the Clerk has an Amendment, LCO #9464, if he would call it please.

THE ACTING SPEAKER:

Will the Clerk please call House "D".

THE CLERK:

House Amendment Schedule "D", offered by Mr. Matties of the 20th: In line 29, before the word "meeting" place an opening bracket. In line 35, after the period, place a closing bracket.

REP. MATTIES (20th):

Mr. Speaker, I'll summarize if I may. First I'll move adoption.

THE ACTING SPEAKER:

The question is on adoption of House "D", will you remark?

REP. MATTIES (20th):

Yes, also Mr. Speaker, I would like to request that this be printed in the Journal and that a roll-call vote be held.

THE ACTING SPEAKER:

Will the Clerk please note. All those in favor of a roll call, signify by saying "AYE". A sufficient number has not indicated a roll call. The gentleman from the 20th.

REP. MATTIES (20th):

Mr. Speaker, I am concerned that the - a good deal of the intent of this legislation can be subverted by some of the same agencies that we discussed and questioned earlier, being of the same political party, can simply call a caucus and conduct public business in private under the guise of a caucus and if we

are sincere in our efforts to open up government and close loopholes, then I think we, this Assembly, should adopt this Amendment which opens up the caucuses and all meetings. Thank you sir.

THE ACTING SPEAKER:

Will you remark further on House "D". The gentleman from the 87th.  
REP. DEMENNATO (87th):

Mr. Speaker, I submit to you that you cannot legislate people's morals. Locks are put on doors to keep honest people out and they will not keep criminals out. If it is the intent of a body of two people or twenty people to be deceitful and to conduct public business behind closed doors, then all the rules and all the laws in the world are not going to stop them. We have recourse in this Bill to take action against any illegal use of authority in the conduct of public business in private. And I submit to you that an Amendment of this nature is not needed. The party caucus is to conduct party business, not public business.

THE ACTING SPEAKER:

Will you remark further on House "D". The gentleman from the 23rd.  
REP. BADOLATO (23rd):

Mr. Speaker, a question to the gentleman that brought out the Amendment. Is it the intention of the gentleman that brought out the Amendment to require that the collective bargaining process be open?

REP. MATTIES (20th):

Through you Mr. Speaker, no the Amendment addresses the caucus and the specific exclusion of a caucus.

REP. BADOLATO (23rd):

Mr. Speaker, another question to the gentleman. I would suggest to the

gentleman that he read Amendment "A" and then respond to the question.

You'll find that Amendment "A" sets in this Section the collective bargaining process and your Amendment wipes it out.

REP. MATTIES (20th):

Through you Mr. Speaker, I did not get a copy of the Amendment Rep. Badolato referred to. May I have a reading of it?

REP. BADOLATO (23rd):

Mr. Speaker, it's two pages long if he wants it read but I don't think he does. But I say to you Mr. Speaker that I oppose the Amendment, it does cover the area that deals with collective bargaining. I don't believe that that was the intention but as a result of the Amendment as it is prepared, I'm forced to oppose the Amendment.

THE ACTING SPEAKER:

The gentleman from the 56th.

REP. BURKE (56th):

Mr. Speaker, speaking in opposition to the Amendment, I would agree with Rep. Badolato that line 29 of the file copy was amended by House Schedule "A" and inserted the concept of collective bargaining in that particular line. This Amendment would also wipe that section out and I can only reiterate what I said before that the Committee grappled with this concept of caucus at great length and it was our consensus that it's necessary to protect the integrity of the party caucus by proposing the language that we did. Therefore, I oppose the Amendment.

THE ACTING SPEAKER:

The gentleman from the 68th.

REP. SAYRE (68th):

Thank you Mr. Speaker. I rise also to oppose this Amendment.

This legislation indeed is not perfect. This legislation goes a long way to bring the sunshine into government as we know it today. I'd like to commend the Committee and Rep. Burke for a terrific job as far as drafting this legislation. We agonized over that caucus decision and it was the consensus of our Committee through I don't know how many days of debate, to leave that party position intact. There are many reasons for it and I guess we all know the reasons. One of them happens to be the selection of candidates, the candidate process. There are many areas of judgements that we have to make and this Bill will probably not be perfect for another five to ten years, but we have taken the first step and as a Committee member, I would love to see this Bill go in, as amended right now and I would oppose any further amendments to it.

THE ACTING SPEAKER:

Will you remark further on House Amendment "D". The gentleman from the 20th.

REP. MATTIES (20th):

Mr. Speaker, although I am still very concerned with the subject matter, I will admit to a defective amendment and I will withdraw it.

THE SPEAKER:

Will you remark further on the Bill? The gentleman from the 136th.

REP. NEVAS (136th):

Mr. Speaker, for purposes of legislative intent, I'd like to ask Mr. Burke a question please. Mr. Burke, on page 7 of the file copy, directing your attention to lines, beginning on line 305 there's a statement that no member of the public shall be required as a condition to attendance at a meeting to register his name. My question, through you Mr. Speaker, is: Would that statement

apply to a hearing before a zoning board of appeals or a planning commission, a zoning commission or a combined commission?

REP. BURKE (56th):

Through you Mr. Speaker, the section that Mr. Nevas just mentioned deals with attendance, again, rather than participation at a meeting. It is not the intention of this Bill to interfere with, what I assume Mr. Nevas is alluding to in the form of requirements, save for presenting a petition, for change of zone in order to increase the requirement of affirmative voting or anything of that nature. This is merely a provision to prevent a public agency from saying if you're going to come in and sit at our meeting, you've got to sign up, except as provided in section 2-45 of the general statutes which I believe has to do with lobbyists.

REP. NEVAS (136th):

Through you Mr. Speaker, then if I understand the response, a zoning body can still require any member of the public who is in attendance at that hearing and who wishes to speak to identify themselves by name and by address.

REP. BURKE (56th):

Through you Mr. Speaker, yes.

REP. NEVAS (136th):

Thank you Mr. Speaker.

THE SPEAKER:

Will you remark further on the Bill? The lady from the 150th.

REP. OSLER (150th):

Mr. Speaker, for legislative intent, I would like to have the assurance of Rep. Burke, through you Mr. Speaker, to the top of page 4. My town is involved in a rather unusual criminal and also civil investigation where last sum-

mer a very tragic fire occurred on a borderline where a building was both in New York State and in the State of Connecticut and our local attorney's office is a little concerned that where our town did the police investigation and arrested the suspect, the trial is now going to be in New York State rather than in Connecticut after the investigation was all done it was discovered that the fire itself took place in New York State rather than in the State of Connecticut. My town would like to be assured that the records of the investigation, the police investigation would not be subject to public view by someone from another state when the trial would be in that other state and not in the State of Connecticut.

REP. BURKE (56th):

Through you Mr. Speaker, I'd be glad to respond. I think we're discussing Amendment "D". However, the terminology is law enforcement agencies, not otherwise available to the public. I think you must read that with records, reports and statements exempted by federal law or state statutes at the end of this exclusionary section of the Bill and I think that if we're worried about perusal of files of agencies of other states that that would be up to the law of other states and that the situation as respects any Connecticut law enforcement agencies or any federal law enforcement agencies certainly in regard to that unfortunate instance that Miss Osler mentioned would be protected by this section.

REP. OSLER (150th):

Thank you very much, it is of deep concern because since we're - many millions of dollars are going to be brought because 24 young people lost their lives. Thank you.

THE SPEAKER:

For further remarks, the gentleman from the 135th.

REP. MANCHESTER (135th):

Thank you Mr. Speaker, for the purposes of legislative intent, a question through you to the proponent of the Bill. Through you, directing your attention to section 5 wherein it deals with the provision that any person may obtain a copy of any record, does that make available copies for example, of field cards in the assessors' offices throughout the state?

REP. BURKE (56th):

Through you Mr. Speaker, yes if not excluded under section 2-b, and I don't think they are.

REP. MANCHESTER (135th):

Thank you sir. One other question Mr. Speaker if I may. Again for the purposes of legislative intent, with regard to the exclusionary clause on, as I recollect, it's line - in any case you can understand the question I'm sure. There is an exclusion concerning appraisals in connection with land or property that is to be acquired by a town and there is also reference to appraisals in connection with condemnation suits in a town. I believe it's at line 149 that this commences, line 50 in that section. Is it the intention of this Bill to make available to the public, appraisals rendered in tax appeal cases?

REP. BURKE (56th):

Through you Mr. Speaker, I think that's covered in the area of records pertaining to pending claims or litigation and further covered by the loss of disclosure of production lawsuits.

THE SPEAKER:

Will you remark further? The lady from the 41st.

REP. KIPP (41st):

Thank you sir. Through you sir to Rep. Burke and for legislative

intent. On occasion an unfortunate incident happens with a policeman and they are fired and in some cases, the fired officer decides that the town or municipality has been in error and decides to take the municipality to court. If, after all litigation is over and done with, if he's found guilty, if appeals are gone over to the highest court and/or indeed if the gentleman in question is found innocent, is there any point in time after all adjudication is over and done with to its finality, is there any way through this Bill that those records could possibly then become public?

REP. BURKE (56th):

Through you Mr. Speaker, I don't think so despite the language concerning pending claims and litigation until such time as it is finally adjudicated or otherwise settled. Certain portions, no doubt, of the file could be garnered under that section at the time the litigation was concluded, however, I would refer to line 116 of the file copy in which personnel or medical files and similar files, the disclosure of which would constitute an invasion of personal privacy and I would submit that certain portions of this theoretical file that you pose would be covered under that exclusion.

THE SPEAKER:

The question at issue is acceptance of the joint Committee's favorable report and passage of substitute for HB 5087, as amended by House Schedules "A" and "B". Will you remark further on the Bill, as amended. The gentleman from the 93rd.

REP. STOLBERG (93rd):

Mr. Speaker, my only comment on the Bill is to congratulate the gentleman bringing it out and the Committee. I too, would have strongly preferred if party caucuses could have been included because strong decisions are made in

party caucuses but this is a very important step and I'm very pleased to support the Bill. I'm sure we are going to have very close to a unanimous vote on it.

THE SPEAKER:

The gentleman from the 89th.

REP. DICE (89th):

Mr. Speaker, I'd just like to make two short comments. First of all if anyone has any trepidations about government functioning on it I think you should that the leasing committee operated with open meetings to that extent. If the leasing committee that investigated the kinds of things that they did can operate under open meetings, I think we can elsewhere. I urge your support of this Bill. Thank you.

THE SPEAKER:

Will you remark further? If not, the machine will be opened. Have all the members voted and is your vote properly recorded? If so, the machine will be closed and the Clerk will take a tally. The Clerk will announce the tally.

THE CLERK:

|                                  |     |
|----------------------------------|-----|
| Total Number Voting.....         | 137 |
| Necessary for Passage.....       | 69  |
| Those voting Yea.....            | 137 |
| Those voting Nay.....            | 0   |
| Those absent and not Voting..... | 14  |

THE SPEAKER:

The Bill, as amended, is passed. The gentleman from the 93rd.

REP. STOLBERG (93rd):

Mr. Speaker there will be an emergency executive but open meeting of the Human Services Committee in the Speaker's office immediately.

THE SPEAKER:



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THE PRESIDENT:

Senator DeNardis. Excuse me, Senator.

SENATOR DENARDIS:

Mr. President, before we begin our long and important agenda today, I would like to take this opportunity to introduce some students from the Highland School in Cheshire who are in the gallery today with their teachers - the fifth grade from Highland School in Cheshire. If the circle would rise and welcome them. They are to my rear. (Applause)

THE PRESIDENT:

Welcome to you Highlanders. Hope you enjoy your visit to the Capitol.

THE CLERK:

The Clerk is ready to proceed in the order as called by the Majority Leader. If you will please turn to page six of your Calendar. Cal. 805, Files 693 and 864. Favorable report joint standing committee on Appropriations. Substitute for House Bill 5087, AN ACT CONCERNING FREEDOM OF INFORMATION, as amended by House Amendment Schedules A and B.

THE PRESIDENT:

Senator Julianelle.

SENATOR JULIANELLE: (14th)

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

THE PRESIDENT:

Will you remark, senator?

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SENATOR JULIANELLE:

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With pleasure, Mr. President. This bill, I think, will mark a new era in Connecticut with respect to opening up the doors of city and state government to the people of Connecticut. We worked on approximately fifteen drafts, the Committee on Government Administration and Policy did, in order to come up with what, we thought, would be not only workable but landmark legislation in a very badly needed area. It also fulfills, to a great degree and completely, the Governor's pledge on opening up government when she campaigned. I think that this law will stand up with any Freedom of Information Bill in the country. Here it deals with not only with the state but it deals with the municipalities. I would like, if I may, read what was going to be the preamble to the bill but which we did not include after discussion with the legislative commissioners office because, as a matter of legislative drafting, it is better not to have that as a part of the bill. But I think that this best sums up the guiding principle by which the committee worked and came out with this legislation. The Legislature finds and declares that secrecy in government is inherently inconsistent with a true democracy, that the people have a right to be fully informed of the actions taken by public agencies in order that they may retain control over the instruments they have created; that the people do not yield their sovereignty to the agencies which serve them; that the people in delegating authority do not give their public servants the right to decide what is good for them to know and that it is the intent of the law that actions taken by public agencies be taken openly and their

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deliberations be conducted openly and that the record of all public agencies be open to the public except in those instances where a superior public interest requires confidentiality. Mr. President, I think that this bill lives up to that preamble to the greatest degree it possibly could. We open up all public agencies on every level of government. We decide what public agencies are by definition. We determine what meetings are by definition. We exclude the right to public records in only some very serious areas, areas that have been agreed by all of the people who worked on the bill and at the public hearings that these areas were sacred and should be not subject to the law. We define when an executive session can be held and it is in only five instances that it can be held and then only by a positive vote of two-thirds of the members of the board. We provide that written notice of the time and the place of all meetings must be filed; that notice of special meetings must be given at least a week in advance, or if the meeting is held sooner than that, at least twenty-four hours' notice. We have provision for emergency meetings and the requirement that what took place at the emergency meeting must be disclosed after the meeting is over with. We allow for photography. We allow for recording devices. We allow for press at all meetings. We prevent the exclusion of people from the meetings, unless they are disruptive. We prevent the exclusion of photography equipment and recording devices and provide an injunctory procedure in the event of such an inclusion so that an immediate hearing can be heard. We provide for a method of appeal, an immediate method of appeal, to a freedom of

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information commission, which must hear within twenty days and decide with fifteen days any objections, so that it is speedy. We allow the commission to fine. We allow the commission to declare null and void the activities of what took place at the public meeting if members are excluded. From the commission, we have an appeal to the Court of Common Pleas and that Court can take evidence and it is a privileged case so that there will not be any delay; and that Court can issue order and issue fine. And finally, we have a criminal procedure for the knowing and willful and intentional violation of the act. I think it is fitting, Mr. President, that now that we are approaching the two hundred birthday of this country that we return to one of the guiding principles upon which this country was ordained; that we return to the principle that the government really belongs to the people and we, who serve on any level, serve only at the will of the people, only for the benefit of the people and we do not have any right to withhold, except with the agreement of the people, any information, any proceedings, anything at all, that we do for the benefit of the people. I urge the passage of this bill, respectfully.

THE CLERK:

The Clerk has an amendment on this bill. Senate Amendment A, as offered by Senator DeNardis.

THE PRESIDENT:

Senator DeNardis.

SENATOR DENARDIS: (34th)

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Mr. President, I move adoption of Senate Amendment A and would waive the reading and would briefly explain it.

THE PRESIDENT:

Will you proceed?

SENATOR DENARDIS:

Mr. President, Senate Amendment Schedule A would amend the section of the bill having to do with executive sessions. In the first clause that discusses the question of appointment and evaluation of employees and would add to that proviso for executive session purposes the term student for the purpose of executive sessions being able to discuss student matters. I would like to address a question, through you, to Senator Julianelle. Perhaps he may deem the amendment unnecessary by what he contemplates would fall within the jurisdiction of that section. And at this time, I would like, through you, to ask the senator to evaluate the amendment.

THE PRESIDENT:

Senator Julianelle, will you respond?

SENATOR JULIANELLE:

Through you, to Senator DeNardis, Mr. President, I do not deem the amendment to be important or indeed significant. I don't think the student, as such, is intended to come within the purview of this act at all. This act, for the executive session, can exclude public officials and employees with respect to the discussion of performance or evaluation of their job. If the student is an employee, he will be covered and there will be no problem. If he is not an employee, he is merely a volunteer and he is

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working with the commission or the committee or the agency, I don't think there is going to be any problem of any discussion of performance or evaluation. I don't like to see the act tampered with because all of its sections pretty much interlock with each other; and we spent a lot of time on it and when we amend one section, without giving a lot of deliberation to the effect on what may cause to the other sections, we may throw the whole act out of kilter.

THE PRESIDENT:

Senator DeNardis.

SENATOR DENARDIS:

Mr. President, I follow the senator's line of reasoning and I think that, based on what he has to say, perhaps I will withdraw the amendment. I would like to so do that and add that I think that the legislation that we have before us is an extremely good piece of work. I think many of us ran on a platform endorsing this kind of legislation for Connecticut. I think that this is a piece of legislation which is comparable to, if not superior to, the much heralded Sunshine Law of Florida and I commend Senator Julianelle for all of the work that he and his committee have put forth to produce this piece of legislation.

THE PRESIDENT:

The Amendment having been Withdrawn, we will proceed on the bill. Senator Neiditz, will you remark?

SENATOR NEIDITZ: (5th)

Mr. President, I also would like to compliment the Committee on Government Administration and Policy and Senator Julianelle.

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Special thanks, from my own observation, to Representative Martin Burke of Vernon for his work. I know, because I missed the use of his services many days in the Judiciary Committee while he was working on this very important piece of legislation. I do have, however, Mr. President, one question that I would like to pose to Senator Julianelle, if he cares to respond. And that is, suppose in a meeting of the judges of the Court of Common Pleas or in memoranda from the chief justice, chief judge of the Court of Common Pleas to judges of the Court of Common Pleas that concerns the performance of judicial functions, would that be covered as an exclusion under this Act? Performance of judicial functions?

THE PRESIDENT:

Senator Julianelle.

SENATOR JULIANELLE:

Through you, Mr. President to Senator Neiditz. If the discussion that is taking place pertains to the performance of his judge, as a judge, then executive session would be permissible and it would be excluded from the coverage of the act. The act covers the Court of Common Pleas only with respect to administration.

THE PRESIDENT:

Thank you. Senator Rome.

SENATOR ROME: (8th)

Mr. President, it is my understanding that Senator Julianelle was, in response to Senator DeNardis' question, stating as not only his intent, but his understanding of the legislative intent of not only his co-chairman but of the committee in bringing this particular bill out. Is that correct, Senator?

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THE PRESIDENT:

Senator Julianelle.

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SENATOR JULIANELLE:

That is correct, through you, Mr. President to Senator Rome. As I said, the bill is intended to open up the functions of government with the performance of the committee or the commission or the agency itself and its personnel. It is not intended to get into the personality discussions of voluntary personnel such as students. This is the reason why we allowed for the executive session for purposes of discussing performance, evaluation, health and any of those sensitive items that almost everyone agrees should be closed up.

SENATOR ROME:

Thank you. Mr. President, I rise to support the bill. I think that there are those who have been watching the legislative procedures for the past few years and recognize that two years ago the General Assembly initiated much of what is incorporated into this bill as their procedures and surprise to so very many in the state, it didn't close up government and make many go underground, it didn't make people less receptive to talking about their ideas; it made them more understanding of the need to publicly explain those ideas and, as a matter of fact, it allowed them and really sustained them in doing better homework. I think it has worked very, very well here. I think it - I commend the senator and the draftsmen on the bill - I think it makes it very clear that it now applies not only to this body but to all bodies in the state - it's state and local government. It is unfortunate

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that the atmosphere in Washington is not such that they would not consider adopting the very same kind of language. I think it is landmark legislation. He is to be commended for, and I hope that we would unanimously support the legislation as witness our good intentions and good faith in the idea that government belongs to the people.

THE PRESIDENT:

Thank you, senator. Senator Owens.

SENATOR OWENS: (22nd)

Mr. President, I rise to support the bill. It's an excellent bill. The bill concerning freedom of information is one that has been a long time in coming and I, too, wish to commend the committee for the outstanding piece of legislation that they have furnished us. This bill is a giant step toward opening up municipal governments at almost every stage of their proceedings, be they big or small. Executive sessions will become an exception rather than the rule. It is something we really vitally need. This is the type of legislation which we really call legislation at its best. I strongly urge passage.

THE PRESIDENT:

Senator Schwartz.

SENATOR SCHWARTZ: (28th)

Mr. President, I am very happy reading this piece of legislation. I believe that it goes a great deal farther than our present law. I know, speaking from experience, in my own town, when we have had a number of problems surrounding the freedom of information, we have never been able to resolve them. I am very

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happy to see that there is a board to which people who feel that they have -problems that are unresolved can turn; a board which will hopefully mediate, short of court action, many problems regarding freedom of information. And I feel that the special provisions regarding special meetings and emergency meetings go a long way to assuring that everyone in the community, if he so desires, will know of the meeting of vital boards and commissions. I feel that on the local level this will be a great addition to furthering confidence in town government.

THE PRESIDENT:

Further remarks? Senator Alfano.

SENATOR ALFANO: (7th)

Mr. President, I stand to support this bill. I am very happy that we, the members of the Connecticut General Assembly, took the initiative and put this bill into effect without waiting for pressure to come from the general public as has occurred in many states. We do not have the right of initiative in Connecticut but most states, where this particular Sunshine Law has been adopted, it has been adopted not as a result of action taken by the legislative body, but it has been the result of action taken by the people in sponsoring legislation through the right of initiatives. This was done in California. It was done in the State of Washington - where through the backing of Common Cause they passed Sunshine laws which are very, very poorly drafted. In fact, if you ask people in the State of Washington, they will tell you that the bill is really an impossibility of enforcement, because their bill is so stringent that any conversation between two legislators,

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even if it is in the mens room, is a violation of their Sunshine Law. In fact, they say in Washington State, when I was out there, that if a husband and wife, who are both in the legislature, went to bed at night and if they didn't give public notice, they could not discuss legislation while they were in bed, because they didn't invite the public. So I say, at least, we did draft a good piece of legislation. It was done by the members of the General Assembly and not by the general public. I think it is going to be a credit to the members of this legislative body and certainly the people of the State of Connecticut should be appreciative of the fact that we did take the initiative in this field.

THE PRESIDENT:

Do you really believe that, Charlie? Senator Fauliso.

SENATOR FAULISO: (1st)

Mr. President, this is, indeed, landmark legislation in a very real sense. And I'd like to think, Mr. President, that now we have completed the cycle. I think our legislature has opened the doors of the legislative process. Today, we are confirming the principle that government is people's business. And I think, Mr. President, that is today we are asserting it and confirming that principle. There should be no longer any idea about government officials meeting in secret, conducting people's business behind closed doors. I think the frustrations of people have been too long. I think that they have been looking for this kind of legislation. I think it brings about integrity

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in government. People want open government. They want it visible. They want to see all their officials acting in the open. We open our caucus doors now and I think that again I repeat it was done several years ago by our predecessors. We have continued that policy and expanded it, the policy. Today, what we are saying is this--that government must open up its records, open up its process and everybody has a right to see what is going on. This is indeed a giant step and I embrace it and support it.

THE PRESIDENT:

Will you remark further? Senator Dinielli.

SENATOR DINIELLI: (31st)

Mr. President, I, too, rise in support of this legislation and commend the chairman and members of the committee for diligently working in this area. The fifteen drafts, I know, required a lot of work, time and effort. I think it is important to note that I received two calls in behalf of this legislation and asked me to support this from editors of newspapers in my area. And I know that they are greatly interested in access of information of governmental bodies. I think it is only right that they have that. I also think that at this time it would be a good idea to charge those individuals, the people who control the news media, the newspapers, the editorial writers, that maybe now is the time for them to respond with the same type of openness and candor, refrain from the sensationalism that we see too often, without enough background information, and maybe we can make this a two-way street. I always had the idea that the

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newspapers in this state had a street named after them in downtown Hartford. There is a big sign there - one way - and it was always their way, and now I hope that showing that this type of interest is here in the legislature, I hope now that they will respond and act a little more in a meaningful way.

THE PRESIDENT:

Thank you, senator. Are there further remarks? Senator Flynn.

SENATOR FLYNN: (17th)

Mr. President, I rise to speak in favor of this bill. Some forty-five years, my father was in the newspaper business, and if there was one thing that I learned at his knee, it was that he believed public business should be conducted in public. This bill, I think, goes a long way to seeing that happen and I would join with those who have commended Senator Julianelle and Representative Dzialo for the outstanding job that they have done on this legislation.

THE PRESIDENT:

Thank you, senator. Senator Lieberman.

SENATOR LIEBERMAN: (10th)

Mr. President, I agree with just about everything that has been said up until now and I am standing just because I think I would be remiss, as the leader of the majority, if I did not stand up to express my personal pride in that role and the fact that this legislation is before us today, and apparently it is going to pass. It is landmark legislation. And I feel particularly encouraged that we are doing it in this year. This has

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been a difficult year for all of us. The economy is in a slide and we have had to make some very hard decisions and unpopular decisions. But I think in this, we are bringing a light not only into the public life of the State of Connecticut, but I would suggest that we are bringing a light into our own lives as legislators this year as a most positive and affirmative act. And I think it basically expresses our confidence in our government and in our willingness to open ourselves to the public we serve. I support the bill.

THE PRESIDENT:

Senator Amenta.

SENATOR AMENTA: (6th)

Mr. President, I am not going to repeat what has already been said. I support this bill. I was ready to put an amendment in, which I am not going to do at this time, but since we have so many people here from the media, especially those from the newspapers, I would wish that they would take the spirit of this law and not allow any letters to the editors to be printed without a full name and address of those who are writing these letters. I think it is a bad way when you get a letter criticizing people or criticizing something that has been happening and you have a byline without being able to identify the people who wrote the letter.

THE PRESIDENT:

Are there further remarks?

THE CLERK:

An immediate roll call will be taken in the Senate. Would

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all senators please return to the chamber. An immediate roll call will be taken in the Senate. Would all senators please return to the chamber.

THE PRESIDENT:

Senator Rome.

SENATOR ROME:

I move it be placed on the Consent Calendar.

THE PRESIDENT:

Senator Fauliso.

SENATOR FAULISO:

Mr. President, I think that this is a piece of legislation that requires individual attention and action and I would respectfully suggest to the distinguished minority leader that we act in that fashion so that I would move that we take this individually.

THE PRESIDENT:

Are the senators prepared to vote? The machine is open. Will you cast your vote. The machine is closed and locked. The Clerk will tally the vote

|                                 |    |
|---------------------------------|----|
| Total number voting . . . . .   | 36 |
| Necessary for passage . . . . . | 19 |
| Voting Yea . . . . .            | 36 |
| Voting Nay . . . . .            | 0  |
| Absent and Not Voting . . . . . | 0  |

THE ACTION OF THIS SENATE IS UNANIMOUS. THE BILL IS ADOPTED.

THE CLERK:

The Clerk misunderstood the majority leader. He did not