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JOINT STANDING COMMITTEE HEARINGS

GOVERNMENT ADMINISTRATION & ELECTIONS

PART 3

725-1080

1979

Town Hall
Probate Court
Fairfield, CT
March 22, 1979
8:00 P.M.

1
khm GOVERNMENT ADMINISTRATION AND ELECTIONS

PRESIDING CHAIRMAN: Representative Niedermeier

COMMITTEE MEMBERS PRESENT:

SENATORS:

REPRESENTATIVES: Simonelli, Wilber

REP. NIEDERMEIER: This is a public hearing of the Government Administration and Elections Committee and the subject of this hearing is Proposed Bill 27, An Act Concerning the Subpoena Power of Municipal Ethics Commissions.

My name is Christine Niedermeier, I'm the Co-chairman of the Sub-committee on Ethics and Lobbying. With me is Rep. Eliner Wilber.

Our first witness is Senator Mike Ballen.

SEN. BALLEN: Thank you, Chairlady and distinguished member of the Committee. I'm Senator Myron Ballen representing the 28th Senatorial District and I'm here tonight to express my full support of Raised Committee Bill 27, and Act I sponsored along with Senator Owens of Bridgeport, which will grant full subpoena power to local ethics commissions.

The authority to issue subpoenas, a power which they now do not have, is necessary where good government is concerned. Because of the public's demand for more responsibility and accountability in government, many towns throughout the State have created ethics commissions in order to investigate possible wrongdoings of local public officials. Strong ethics commissions would insure an important requirement of democratic government, that public offices be independent and impartial and responsible to the people they serve.

I feel that although these ethic commissions are definitely a step in the right direction, that without the power to summon witnesses on complaints, the watchdog capacity and

SEN. BALLEN: (Continued)
power of these commissions is severely handicapped.

The public has expressed its desire for more accountability of public officials actions, but ethics commissions must have the proper authority to issue subpoenas in order to act in a meaningful way.

This problem is particularly relevant to the town of Fairfield when, in 1977, an investigation by the Fairfield Ethics Panel was, in effect, killed when the key witnesses refused to testify and could not be subpoenaed. The proposed Bill would remedy this problem once and for all by compelling witnesses to testify, under subpoenas, that are enforceable through the Superior Court.

We can work to restore the public faith in government, by favorably reporting this Bill. An ethics commission without teeth cannot possibly do the job for which it was intended and might as well not even exist. Thank you.

REP. NIEDERMEIER: Thank you, Sen. Ballen.

REP. WILBER: Rep. Wilber, 133rd. Mike, you're an attorney and I wonder if you have any discomfort about the fact that commissions, boards, committees, councils or agencies, it does not mention how those committees would be selected, how the boards would be selected, and I wonder if you really believe that any committee, any board, that might be appointed by any one, in this case, and call itself an ethics commission, or be called an ethics commission, and I really think that's what we're talking about here, would have the right to subpoena witnesses.

And I'm not uncomfortable about an ethics commission, a duly established ethics commission, but I'm wondering about the lack of specifications.

SEN. BALLEN: I'm not uncomfortable about it because I think it's spelled out fairly tightly, created solely, any committee or board that's created solely for the purpose of investigating the activities of any department. I don't envision it applying to just any board or commission in the town. I think it would have to be a board or commission solely appointed for the purpose of investigating a particular activity.

REP. WILBER: I wouldn't want to point to this town, but let's take an example. Let's say that the First Selectman of the town of Yukon chose to appoint an Ethics Commission made up entirely of one party, would you be uncomfortable about that?

SEN. BALLEN: No, not really. I think there is enough protection in the local charters that would probably prohibit that type of a situation from occurring, but if not, no.

REP. WILBER; But are there protections in local charters that would, in fact, protect against that? In other words, is there an established method of choosing an ethics commissioner and are there protections?

I'm not opposed to the subpoena power but I am concerned about the choice of that Commission that would end up with the subpoena power.

SEN. BALLEN: Well, I would imagine that every community in the state, probably under its own charter, may have some provisions for the appointment of an Ethics Commission, if they have it at all.

REP. WILBER: If they have it at all. But my question is, I just think this should be refined more, there should be some specifics of power of appointment or election for an Ethics Commission written into this bill, because I visualize the possibility of it being a very political matter. And I'm really not referring to this town, because I think we have had a long practice of trying to deal with this but it is possible, don't you think, within the structure of town government to come out with a very political situation, and give subpoena powers to a very political body?

SEN. BALLEN: Well, that's the danger in any type of bill of this nature, but I think it's not all good and it's not all bad and I think you have to weigh the good points against the bad points and I think the necessity for having the subpoena power, that would in an Ethics Commission would probably far outweigh any of the evils that might also occur by misuse or misapplication of the law.

I really don't see how you can tighten that up very much because of the diversity that you're going to find in the ways of appointing Ethics Commissions, or other boards or

SEN. BALLEN: (Continued)
commissions in each of the 169 autonomous towns in the State of Connecticut.

REP. WILBER: Thank you very much.

SEN. BALLEN: You're welcome.

REP NIEDERMEIER: Just one question.

SEN. BALLEN: Sure.

REP. NIEDERMEIER: Do you think there ought to be any standards prior to the issuance of a subpoena in terms of, I'm not sure how to phrase this but, to send your commission into court to issue a subpoena without, in the very preliminary stages of investigation which are used quite frequently, without any, not really probable cause, but without any kind of determination that there might be a more than likely chance that a violation is involved of willfull conflict of interests statutues, or local legislation or local statutes might be opening the door a little bit too wide, do you have any suggestions?

SEN. BALLEN: I have definite feelings, I don't think there is any danger of that, the present statute, any attorney at law can issue a subpoena whether or not he has reasonable cause if he feels the situation warrants the necessity for issuing a subpoena.

Another factor that I think we haven't even considered is that many a witness would much preferred to be brought in under a subpoena whereby he is actually forced to testify under oath. It's a protection to him, too, because if he came in voluntarily and made certain statements, perhaps he would be open for slander and libel suits. Whereas if you were subpoenaed, you would get a certain amount of protection by the mere fact that a subpoena was issued and he comes forward and I think possibly the case referred to, that may have been a consideration on the part of the recalcitrant witness, he didn't want to appear, he felt that perhaps if a subpoena had been issued, or could have been issued, he would have been given certain immunities that he might not have had if he voluntarily appeared, or he appeared without the subpoena. It works both ways. I think it's been an issue on both viewpoints.

REP. NIEDERMEIER: Thank you. The next witness is Jean Sturges.
Belt #2 I'm sorry, John Sullivan. SB27

JOHN SULLIVAN: My name is John Sullivan. I'm an official with the town of Fairfield and I come to you tonight speaking in favor of the bill that is before the General Assembly of the state of Connecticut. I come here because, first of all, I'm Third Selectman of the Town of Fairfield, actually, favor a bill like this coming before the General Assembly of the state because of the unhappy experience we had here a year or so ago.

First of all, I think that they should have the power of subpoena, and have the right to question. The way it was, the as I understood it, interpreted by our Town Councilman not quite correct, if we had the power of subpoena which came before us and there was nothing in the law that said that we had a right to question. It was almost ludicrous how any session of the Connecticut General Legislature could have created such a law that was meaningless, fruitless and a waste of their time and our time. To have people go around a town with all kinds of allegations, smears and reputation of people who had worked in this community and had that kind of work behind them, and ask a person, the Chairman of the Board asked them, there was a stack of newspaper that high. And I'm not exaggerating, I think it was 11 or 12 inches high. They wouldn't answer any questions and it was because somebody higher up, better organized and more and when asked the question, you mean to some other body had said to him that you cannot give testimony in here in a written to say that.

Now we have FBI men running all over the community. Does this fellow pay his bills, does he owe any money? Did he ever clip you out of anything? Did he this, that or the other thing. And you people in public life as long as I have, you this microscope that there isn't much left that the public doesn't know about. And what your private life is at least in Fairfield.

Now I lead to the allegation that a public official has done something wrong then he or she, or whoever it might be, should come out and say what it is. Not run -- and actually, to all intents and purposes say I refuse to talk. Now there's something wrong when people do that. And I can go right up to my desk now and I

MR. SULLIVAN: (Continued)
can show you where people have said things, had releases in the paper and then say, well I only know what I read in the newspaper. And I think that's the most unfair thing to put any public official through.

I don't mind being investigated, God knows I've been investigated inside and out for the last 20 years and Sullivan knows about, but I know it. When you have people come out in public and say these things that's what I say is wrong and I say that is the biggest argument that I know of. That this particular bill should , it should be a part of a state law and you people should be very careful about slandering reputations and when you have anything to be willing to back them up. That's what I think.

I think it's a ludicrous thing, and I'm being repetitious now, a bill like this should have been in the state statutes and that's all there is to it. being specific

REP. NIEDERMEIER: Thank you, Mr. Sullivan. Rep. Jerry Simonelli from Stamford, a member of the sub-committee has just joined us. Any questions? Our next witness is Jean Sturgis.

JEAN STURGIS: I'm Jean Sturgis from Fairfield and I was vice-chairman of the Fairfield Ethics Panel although I'm speaking for myself tonight, not on behalf of the Panel. SB 27

Without the power of subpoena we relied upon, the Selectman subpoena power in two instances. One, you've already heard about, the other one was to give protection to a friendly witness. We held -- the other part of our charge when we were appointed, was to draft an ordinance for the establishment of a permanent ethics commission and we held a public hearing on our draft last May.

The people who spoke at that hearing included the chairmen of both the Republican Town Committee and the Democratic Town Committee of the Town of Fairfield and also William Glover, who was former minority selectman. I have the transcripts from that public hearing if you want me to read what they said into the record, or I can leave it with you. They all indicated that if there was to be an ethics commission, that it was essential that they have, that the commission have the power of subpoena. I'm fully in agreement with that also.

REP. NIEDERMEIER: If you could make copies of that for us for the record?

MS. STURGIS: O.K., fine. I think everything I say you're already going to figure out for yourself, so if you have any questions, I'd be glad to answer them.

REP. NIEDERMEIER: Any questions.

REP. WILBER: Yes, I'd like to ask the same question I asked Mike Ballen. Do you have any problem about the way a commission is set up?

MS. STURGIS: I think I have more problem than Mike did. We had a great deal of trouble trying to decide how, if Fairfield was to have an ethics commission, and there was a disagreement among the ethics panelists of whether there should be a permanent ethics commission established, the majority of the panel did feel there should be a commission. We gave a great deal of thought as to how it should be appointed. And I'm not familiar enough with all of the ramifications of the state provisions to know whether there are sufficient safeguards so that in towns throughout the state who have started to have an ethics commission would be bound to establish one that was not politically motivated.

And this does give me a great deal of thought because I think the whole purpose in having an ethics commission is to establish a body that the citizenry has confidence in. And that whether or not it is free from political motive, it must also be perceived by the people in the town as being free from political motive.

REP. WILBER: That's something that's very
I don't think and although

(This part of the tape was quite blurred, which included Mr. Sullivan's testimony and Rep. Wilber's questions to Ms. Sturgis.)

REP. NIEDERMEIER: Thank you. I must just point out for the question that you just raised in connection with authority. It is even now somewhat tenuous whether ethics commissions are authorized, most of them have been set up locally under the guise of a statute which requires towns to further good government and preserve it locally, so it's come within the implied power of localities and only charter towns have normally been empowered.

REP. WILBER: I'm not on, obviously I'm not on your Committee, but I mean maybe this is something the Committee should be thinking about.

REP. NIEDERMEIER: Our next witness is Steve Galpin.

STEVEN GALPIN: It's a privilege to be with you. My name is Steven Galpin, 350 Harbor Road, Southport. I, like Mrs. Sturgis was a member of the ethics commission in Fairfield and I've had various other involvements with consideration of state and local ethics, the Connecticut Bar Foundation Task Force, to develop a local, model ethics ordinance, I'm a member of the National Municipal League, Commission on Creating Model State Conflict of Interest Statutes, etc. I have an employer, but I speak for myself, not him. SB27

I truly support the proposal to provide subpoena power to local ethics commissions, including the power to seek enforcement of these subpoenas. I will interpolate here to say that I think you've got a good point. I think it's readily soluable without a state statute writing how it shall be done, but it can establish some guidelines.

The Fairfield experience has been mentioned and I won't say any more about that. We had this experience being in the documentation of the charges by the main complaintant in 1977, but substantially impeded the performance of our local ethics.

Now, I believe a local ethics commission must have subpoena power to fulfill all aspects of its functions, but I don't want to leave the impression that the main category of what the local ethics commission would do would be to run around subpoening people. I think its main functions are advisory and interpretive. Advising town officials and employees on questions they may have, that they think is in the area of ethical behavior, or relating to the town's standard of conduct. And in interpreting the town's charter or ordinance provisions on standards of conduct. But inevitably, allegations of misconduct and unethical conduct may arise and the local ethics commission respecting all standards of due conduct, due process and individual rights, must have the power to investigate charges that may come before it.

It must have the ability to find facts, and if it hasn't its credibility, then its usefulness would be in grave doubt. This requires subpoena power vested in the ethics commission itself. And I might say not merely with the

MR. GALPIN: (Continued)
Board of Selectmen, or whatever form the town or city's government, governing body may be. The commission itself is proposed in the bill to have subpoena power, and that, I suggest, is where it ought to be.

Without this power, the ethics commission is hobbled, as was our own Fairfield town. On another, a different level of discussion, we face the question of whether each level of government in our system, federal, state, local, should have the power to be as self-sufficient as possible, including the power to provide for and to guard its own integrity.

I believe the answer to this should be yes. Each level of government should guard its own integrity and have the power to do so and no level of government should deprive another of this opportunity. So I seek this opportunity for the towns and cities of Connecticut, and this means empowering local ethics commissions to fulfill their own missions.

Parenthetically we have read in local newspapers lately, of the FBI poking around in among itself extremely local aspects of our government in Fairfield, we're led to wonder whether we should not be able and willing to make such inquiries ourself, leaving the FBI to concentrate on much larger matters of national import.

If the power resided here to make these inquiries, the authority to make them, I think both the federal government and the town of Fairfield would be better off. And this thought applies to the state filling a vacuum in local matters as well. I gave a little talk on this matter in Hartford in February, and if you'd like a copy of that for the record, I will offer it. That related to whether the state should enact a state law mandating ethics on a town, or should it not. And my point of view was that it should not, and that's reflected in that speech. That ethics are fine, but towns and every other level of government ought to see to it for themselves. Those are my thoughts to which I would append, I think the bill can be, can meet your questions not only you know, is it really composed as an ethics commission, is it bipartisan? You can have a couple of standards in the bill which both run in the direction of meeting objectives.

REP. NIEDERMEIER: Thank you, Mr. Galpin. Do you have any...

REP. WILBER: No, except (inaudible and muffled) and yet it is true, I believe it can be solved...

MR. GALPIN: Yes, not much in the bill. I don't think the bill should write how to, you know, every detail of the composition of a local commission, but, you know, to say it should be bi-partisan is perfectly logical and unexceptionable and it should go in that direction. Thank you very much.

REP. NIEDERMEIER: Any other questions? Thank you, very much. Our next witness is Mr. Carl Dickman.

SB27

CARL DICKMAN: Thank you, Madam Chairman and for the record my name is Carl Dickman, I live at 34 Street, here in Fairfield, and I am also one of the Selectmen of the town. I want to thank the Sub-committee for coming here this evening and feel it is quite appropriate that you should be here for such a meeting, considering that at our March 7 meeting the Board of Selectmen recommended to our Representative Town Meeting, which is our legislative body, the adoption of the ordinance establishing an ethics commission here in the town.

Strangly enough, under Section 2 of this ordinance, the powers and duties of such a commission are such defined that when those powers are granted, are the following: "The commission is empowered to retain its own council, to administer oaths, issue subpoenas requiring appearance, testimony and production of documents at a hearing held by the commission." And I don't know what the effect of this pending legislation is going to have on this ordinance. Other than perhaps we'll have to amend it slightly to say "when so granted by the state of Connecticut."

While the statutes have for some time given subpoena power to boards of selectmen in the last session of the legislation granted subpoena enforcement powers to boards of selectmen, it's a very great doubt in my mind if most of us who are laymen, as to whether or not the power to issue subpoenas, to issue and enforce subpoenas granted to boards of selectmen is indeed concurrable to an ethics commission. Consequently, without this bill, we would have an ethics commission with no subpoena powers.

And municipalities themselves, as you are well aware, have no inherent police power. Whatever authority they have

MR. DICKMAN: (Continued)
must necessarily be derived from the state. Consequently, we must look to you to provide some help in providing subpoena powers.

To provide subpoena powers to an ethics commission is a necessary I think to both the accused and the accuser. To the accused in order to assure the appearance and testimony of an accuser, thus minimizing frivolous type complaints. And to the accuser to insure the appearance of the accused to testify under oath. An ethics commission without subpoena power is, to me, like a policeman without the power to arrest, or a prosecutor without the power to issue warrants.

Public office is a public trust, conferred by public authorities for a public purpose. Everything is public. Anything which intends to weaken the public confidence and to undermine the sense of security of the individual rights which a citizen is entitled to feel is against the public policy. To continue this public trust, we must do everything to bring things out into the open and without subpoena powers, things will not be open. It's impossible and I strongly support the passage of this bill and urge you to pass it.

REP. NIEDERMEIER: Thank you very much

Belt #3 (There was a gap between tapes so the introduction of this speaker was not recorded.)

JAMES ELDRIDGE: member of the Board of Selectmen SB 27
of the town of Fairfield and reside at 65 Lane in Fairfield and I have no profound statement to make. You've heard from two very able members of the town commission that we had, that apparently we had established last year, and you heard of the frustrating experience the thing went through, and we, as members of the Board of Selectmen are finding that our presumed power of subpoena was not enforceable and I would not like to see our proposed new ethics panel be handicapped under a similar situation.

So I would like to see that they do have an effective power of subpoena and I think it can work out without going into too much detail, establishing some guidelines if you think it's necessary in connection with it, although I don't really believe it's necessary because the town, I think, can establish I think reasonably fair panels if left to their own merits on that basis. So I just wanted

MR. ELDRIDGE: (Continued)
to add my voice to that of my colleagues on the Board of Selectmen, Mr. Sullivan and Mr. Dickman and the able members of the panel that we had here.

REP. NIEDERMEIER: Thank you, very much.
Our next witness is Town Attorney Noel Newman.

NOEL NEWMAN: My name is Noel Newman, I live at 70 Crest Hill here in Fairfield. As Chris indicated I am the Town Attorney, I really come not in any official capacity but just to express my own personal opinion and speak in favor of the bill just to correct my friend and fellow attorney, Senator Ballen on one minor point. I think the recalcitrant witness whom we encountered in our, in our ethics panel, whom the Board of Selectmen encountered in this unfortunate experience that's been alluded to, I don't think that the reluctance to testify had anything to do with any desire for immunity though that was expressed at one point. SB27

But the court actually ruled that we did have a valid subpoena. The problem was in the enforcement so that I think you have two things that are important here. In the first place you have an attempt to provide ethics commissions with subpoena power and secondly to give them an avenue for enforcement that was missing from the so-called valid subpoena power that the courts said that the Board of Selectmen had.

I could never quite understand a subpoena without enforcement - to me is not a subpoena, but people in higher, in high judicial positions didn't agree with us. I think the Fairfield experience, of course, somewhat mitigates, or militates somewhat against Mrs. Wilber's fear that these commissions are going to be chosen in a political way and I refer both to the high caliber people that were on the ethics panel when it was functioning, a few of them are here tonight and although there was some criticism of the manner of selection, I think that you did have five people of unquestioned reputation in the town who were basically non-political people.

And the method that was suggested to the Representative Town Meeting and the ordinance that they will be considering over the next couple of months, provides for selection by unanimous vote of the Board of Selectmen, so that is just one method Fairfield has certainly chosen a method

MR. NEWMAN: (Continued)
that makes it almost impossible for the commission to be chosen in a political way because, and I think further that the state statutes do provide that in town government, most commissions and boards, that there be minority representation. And I think that if you have an ethics committee or panel or commission that's established on an ad hoc basis to deal with a particular situation such as we did have here in Fairfield a couple of years ago, there is perhaps some danger that there might be political motivation or political means in choosing the members.

On the other hand, if you're going to have a permanent ethics commission or even a semi-permanent that will deal with problems that have not yet arisen, but as they arise, I think that the danger of a political motivation is far outbalanced by the desirability of having ethics commissions and ethics commissions that can, if necessary, go to court to enforce subpoena power.

I do acknowledge that there is a question under the home rule act, under the powers that are enumerated that municipalities have. I think there is at least, and I have not researched this, but I think there is at least some questions as it was raised before, as to whether or not the choosing of ethics commissions, or the establishing of ethics commissions is, indeed, a permissible power under the home rule statute, but of course even that, the legislature does have the power to deal with, and I think, I don't have the statistics, but it's my understanding that there must be roughly, at least 50 towns, or somewhere in that number in the state that have established ethics commissions and it seems to be, I hate to say that it's a fad, but it seems to be a trend and I would think that if that many municipalities feel that this is something that is desirable, that maybe the question of the charter powers under the Home Rule Act ought to be looked at too, in addition.

Basically, I think this is something that is not only desirable, but necessary and I would support it.

REP. NIEDERMEIER: Thank you. I have a couple of questions I'd like to pursue just briefly. One is the problem in terms of being a question of whether we have, municipalities have the right to set up ethics commissions. There are, as you mentioned 50, I think it's 53 that have set up some conflict of interest commissions, ethics commissions. Do you have any opinion as to how far or how

REP. NIEDERMEIER: (Continued)
broad we ought to be in terms of specifying not only the power to establish ethics commissions but details as to the composition and the appointments -- is the Fairfield experience one which you think was one of not getting into that at all?

MR. NEWMAN: Well, I think there ought to be some clarification of the powers. I must say, I said, I probably should have said it, although I recognize that there is a question, I did render an opinion to the Board of Selectmen that they ought to adopt and send for the RTM an ethics commission and I did a premium, so I do believe that a municipality does have that inherent that's an implied power, but I just recognize there could be an argument on the other side of that issue.

As far as the problem that Mrs. Wilber raised, I admit that this is a legitimate issue and I think that when the statute talks about committees and councils, I think that probably could be tightened up a little bit right there. I don't know what -- a committee is what we really had and it was really appointed basically as a committee which did not have either charter or ordinance power to back it up and I certainly could see where there would be hesitation to giving subpoena power to a committee, if it was that type of committee. Maybe I'm overreading in the word committee, but as far as getting into the methods that a municipality would use in choosing an ethics commission, I suppose if there were some provision that it be bi-partisan, I guess that would be desirable although I'm not sure that it's necessary because of the general state statutes that provide for bi-party representation.

On the other hand, it seems to me that you could almost say the same thing about any town, certainly a town appointed body. I mean to have a politicized police commission, for example, to me is just as much of an undesirable thing as to have a politicized ethics commission, so, you know, I don't dismiss your concern out of hand, but I don't see that much difference between setting up ethics commissions and other important agencies where the appointments are made sometimes on a political basis.

REP. NIEDERMEIER: Should a local ethics commission select their own attorney, or should the town attorney serve? I hate to ask you that but--

MR. NEWMAN: I think they should have the power to select their own and that's what we put in the Fairfield statutes. Although at the outset I did offer my services to the town in retrospect I think maybe I shouldn't have even offered and I'm glad they didn't take me up on it. I kind of think that answers the question.

REP. NIEDERMEIER: One question I have, and I'm the co-sponsor of this legislation, but I noticed in reading the decision that the court rendered that although they said that the selectmen did not have the power to enforce subpoenas, they said that they never reached the issue of whether a town attorney could enforce a subpoena because there was a in court.

Now could we, in fact in Fairfield, and other towns across the state already have that indirect, enforcement power by utilizing the power of the town attorney under that section of 51-85 statute.

MR. NEWMAN: Well 51-85 is, has been amended. Yes, attorneys do have subpoena power but I still am not really, I would not really be too confident that attorneys can simply sit down and issue subpoenas unless the body for which he's operating would have subpoena power. Otherwise, it would almost seem as if, if an attorney is conducting an investigation we could subpoena somebody to come into his office to testify about some matter or case that he was handling and I'm not---

REP. NIEDERMEIER: Yes. The statute says in relationship to an administrative proceeding and I think that the question has been whether that -- whether an ethics commission investigation constitutes an administrative proceeding and it's never been interpreted as being a municipal administrative proceeding.

MR. NEWMAN: Well I guess it would certainly have the nature of a quasi judicial proceeding and I don't know .

SEN. BALLEN: You're absolutely right. In order to issue a subpoena, the person subpoenaed to appear before such and such a body, that body has to have a right to subpoena. In other words, it has to be a court, or some other body that has the right to subpoena in its own right. In other words, I couldn't as an attorney issue a subpoena to Mr. Newman to appear before the three of us together for the purpose of investigating his activities in the town council

SEN. BALLEN: (Continued)
or whatever.

REP. WILBER: Do you have any question about the act which we passed last year which gave the enforcing power to those who can issue a subpoena. I mean that was ridiculous. I don't know if you know that the entire Consumer Protection Agency was out in the cold when they took a look at that. If the court ruling stood up and the entire Consumer Protection Agency of the State did not have the enforcing power in the statutes.

MR. NEWMAN: You mean under the decision that Chris is talking about?

REP. WILBER: Right. In other words, the State law had been written over time and I guess it was pretty hit and miss over the question of enforcement, the power to enforce, and it was really quite a surprise to everybody to discover that just any judge would read it that way.

MR. NEWMAN: Well, not only that, it was a complete surprise to me. Because you see this issue was not raised at all by either counsel in the lower court and that's why when the court said that I couldn't raise a newer statute because the argument wasn't mentioned in lower court, I felt that with all due respect to the court that was grossly unfair because this was raised for the first time by the court in its decision, you seen, so that the defendant in that case never raised that issue and I never thought it. Now I say, maybe it's an issue that should have been thought of, but I thought then that for the courts to turn around and say it wasn't raised in the lower court, I mean that interpretation, the thought, the idea of that the body wasn't set up properly, it couldn't subpoena somebody that didn't work for the town, the procedures that were followed weren't right.

Belt 4 He didn't refuse to testify because he had a private meeting with a couple of members, I mean all those issues in the court rejected everyone of them and it said that if it had subpoena power that the Legislature gave it, and could exercise it properly, but when the Legislature passed this particular special act for you they didn't put enforcement power. And there are a lot of others, as you say, Consumer Protection and many...

REP. WILBER: Well, it turned out that as you gave it to me, it , but do you think that the statute that we passed does...?

MR. NEWMAN: Yeah, I thought it did, yeah.

REP. WILBER: Okay.

REP. NIEDERMEIER: Any other questions? Thank you. Are there any other witnesses? At this time I'd like to just ask that we admit into the record testimony submitted by Paul Town Clerk of Trumbull, dated March 22, testimony from Dr. James dated March 20, 1979, a letter from Representative Robert Jaeckel, dated March 22, 1979 and a letter from Representative dated March 22, 1979. This session, meeting is recessed.

Belt #1 - 983
Speaker

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BANKS COMMITTEE
MEMBER
PUBLIC SAFETY COMMITTEE

SERVING THE PEOPLE OF
BETHEL FAIRFIELD
EASTON NEWTOWN

Testimony on Committee Bill 27
March 22, 1979

I am here tonight to express my full support of Raised Committee Bill 27, an act I sponsored with Sen. Owens of Bridgeport which will grant full subpoena power to local Ethics Commissions. The authority to issue subpoenas, a power which they now do not have, is necessary where good government is concerned.

Because of the public's demand for more responsibility and accountability in government, many towns throughout the state have created Ethics Commissions in order to investigate possible wrongdoing of local public officials. Strong Ethics Commissions would insure an important requirement of democratic government- that public officials be independent and impartial, and responsible to the people they serve.

I feel that although these Ethics Commissions are definitely a step in the right direction, without the power to summon witnesses on complaints the watchdog capacity and power of these commissions

is severely handicapped. The public has expressed its desire for more accountability of public official's actions, but Ethics Commissions must have the proper authority to issue subpoenas in order to act in a meaningful way.

This problem is particularly relevant to the town of Fairfield. In 1977, an investigation by the Fairfield Ethics Panel was in effect killed when the key witnesses refused to testify and could not be subpoenaed.

The proposed bill would remedy this problem once and for all, by compelling witnesses to testify under subpoenas that are enforceable through the Superior Court.

We can work to restore the public's faith in government by favorably reporting this bill. An Ethics Commission without teeth can not possibly do the job for which it was intended, and might as well not even exist.

985

State of Connecticut

GENERAL ASSEMBLY

STATE CAPITOL
HARTFORD, CONNECTICUT 06115

March 22, 1979

State Representative Christine M. Niedermeier
Chairman, ETHICS AND LOBBYING SUBCOMMITTEE
Committee on Government, Administration and Elections

Dear Representative Niedermeier:

Since I cannot be present at tonight's public hearing in Fairfield, I wish to advise you as chairman, and other members of the Ethics and Lobbying Subcommittee, of my support of Senate Bill No. 27, AN ACT CONCERNING THE SUBPOENA POWER OF MUNICIPAL ETHICS COMMISSIONS.

I urge the Ethics and Lobbying Subcommittee to act favorably on this bill which would permit ethics commissions, boards and committees of each of the state's towns to issue subpoenas for the purposes of investigating the activities of town governmental bodies and their elected or appointed officials. I wish to go on record of the subcommittee in support of this bill.

The bill would give powers to ethics commissions in their investigative efforts of activities of government agencies, boards and commissions and officials which otherwise might be impossible, thwarted or delayed. I feel the subpoena powers the bill would provide would supply the necessary tools for certain investigations, and I am asking the subcommittee to take favorable action on this important bill.

Yours truly,

Robert G. Jaekle

ROBERT G. JAEKLE
State Representative, District 122

RGJ/dl

State of Connecticut
GENERAL ASSEMBLY
STATE CAPITOL
HARTFORD, CONNECTICUT 06115

March 22, 1979

State Representative Christine M. Niedermeier
Chairman, Ethics and Lobbying Subcommittee
Committee on Government, Administration and Elections

Dear Representative Niedermeier:

I am writing to you in your capacity as chairman of the Ethics and Lobbying Subcommittee of the Committee on Government, Administration and Elections, to advise you and other subcommittee members of my support of Senate Bill No. 27, AN ACT CONCERNING THE SUBPOENA POWER OF MUNICIPAL ETHICS COMMISSIONS.

Since I am unable to be personally present at tonight's public hearing in Fairfield, I wish to be recorded by the subcommitee as supporting this bill, and to urge favorable action by the Ethics and Lobbying Subcommittee.

In my town of Trumbull, the council has already gone on record requesting the state to give subpoena power to the Trumbull Ethics Commission. The bill which I am supporting would give this subpoena power statewide to all towns and cities. While it would be my hope that ethics commissions would not have to use these powers, I nevertheless feel that they should be made available as tools to be used as necessary, and I support legislation that would accomplish this.

Yours truly,

MORAG L. VANCE
State Representative, District 123

MLV/dl

TOWN CLERK'S OFFICE
Town of Trumbull
CONNECTICUT

PAUL S. TIMPANELLI
Town Clerk
Town Hall
261-3631
Ext. 33

Office Hours
Mon.-Fri. 9:00am-5:00pm
1st and 3rd Saturdays
9:00am-12 noon
2nd and 4th Thursdays
5:00pm-9:00pm

Statement Given to Public Administration and Election Committee - Connecticut State Legislature Public Hearing - Fairfield Probate Court -

8:00 P.M. By Paul S. Timpanelli 3-22-79

SB 27

My name is Paul S. Timpanelli and I presently serve in the position of Town Clerk of the Town of Trumbull and I am here today in that capacity.

I come before you today to press for quick action on a Bill to provide subpoena to the Ethics Commission so that these needed investigatory public agencies may have the necessary and proper authority to act meaningfully on matters brought before them. We do not have to be reminded that the people are rightfully demanding that public officials be more fully accountable for their public actions. The enacting of local ordinances to create local commissions attests to that. But it is now up to this legislature to provide them with the means by which they can function more effectively and the granting of the summary power of subpoena, I believe, will accomplish this end.

There is no question that the time has come for Ethics Commissions. It is unfortunate that often times political scandals serve as the catylst to establish such commissions. The movement for the creation of local boards is not enough to fulfill our committment to good government, nor to fulfill our committment to open government, nor to fulfill our committment to honest government. We must take the next step. Logic dictates that the establishment of the Commission alone without the power to summon witnesses on complaint matters will not convince the public of our committment. Commissions that sit regularly without the means to take action are severly handicapped in their efforts to serve in their "watch-dog" capacity.

We in Trumbull wish to provide our Ethics Commission with all of the legislative tools available, so that its job can be effectively performed.

We would like to be able to demonstrate to the people of Trumbull that we have fully acted to protect their interests. Providing this needed authority will allow us to do just that, anything less would be a breach of faith to the people who have entrusted us with public office.

Thank you for your consideration and I urge you to act positively on the proposal before you.

DR. JAMES G. KELLIS
175 GODFREY ROAD
FAIRFIELD, CONN. 06430

374-5013

March 20, 1979

Rep. Christine M. Niedermeier
10 Centerbrook Road
Fairfield, Connecticut 06430

SB 27

Dear Miss Niedermeier:

The clerk of your subcommittee telephoned me and requested I appear before your subcommittee, Thursday morning, March 22, to discuss your proposals on municipal ethics commissions.

Unfortunately, the morning of March 22 I am departing on an urgent business trip and could not be in Hartford. Your clerk agreed that I may submit my comments to your subcommittee in writing for enclosure in the record.

Considering my experience with the Ethics Commission in Fairfield, I have serious reservations about municipal ethics commissions unless they are structured properly, given the tools for investigation and granting of immunity to witnesses from libel suits.

During the deliberations of my case in the courts, one judge remarked: "This could have a chilling effect on political freedom and dissent." We should understand that granting powers to a municipal ethics commission, stacked-up with cronies, could stifle political opposition in the community and violate our basic political precepts. Anyone alleging wrongdoing could be brought before such municipal ethics commission and reduced to ashes. A complainant cannot master witnesses, because they live in the same community and could be intimidated and harassed by the local authorities. This exposes any person complaining of wrongdoing to libel suits and much intimidation and harassment.

In my case, I have chosen the Hobbs Act, the FBI and the office of the U.S. Attorney. Though this approach presents some limitations because you have to prove criminal wrongdoing versus political unethical conduct, still it is better than a commission which is either unwilling or unable to do the job.

If your subcommittee's intend is to proceed with legislation on the organization of municipal ethics commissions I suggest the following measures:

1. Ethics Commissions should consist of 5 members. Three of the majority party and two from the minority party. Appointments should be nominated by the Democratic and Republican Town Committees to preclude the selection, by the chief executive, of commissioners with crony characteristics.

2. The Ethics Commissions should be provided with a majority counsel and a minority counsel.

3. Allegations to be turned for investigation to the state police. The chief executive or some police commissioners could influence an investigation conducted by the municipal police.

4. Most meetings of the ethics commisions should be held in public. Executive sessions should be reduced to the minimum and only under a certification of the whole commission that security matters are being discussed.

5. The ethics commissions should be granted power of subpoena.

6. Witnesses appearing before the Ethics Commissions should be granted immunity from libel suits.

7. The conduct and performance of municipal ethics commissions should be reviewed periodically by the state ethics commission.

8. Intimidation and harassment of persons submitting complaints to a municipal ethics commission should be referred to the State's attorney for prosecution.

I hope my comments are of benefit in the deliberations of your subcommittee.

Sincerely yours,

James G. Kellis

James G. Kellis

JGK/evp

JOINT STANDING COMMITTEE HEARINGS

GOVERNMENT ADMINISTRATION & ELECTIONS

PART 4

1081-1470

1979

State Capitol
Room 418
March 27, 1979
10:00 A.M.

1
kva GAE SUB-COMMITTEE ON ETHICS & ELECTIONS

PRESIDING CHAIRMEN: Representative Niedermeier

COMMITTEE MEMBERS PRESENT:

SENATORS:

REPRESENTATIVES: Niedermeier, N. Parker

REP. NIEDERMEIER: House Bill 5313. With me is Rep. Parker.
Cas 1 Our first witness is Rep. Morag Vance. Our first of many. (laughter)

REP. VANCE: Good morning ladies of the sub-committee of GAE. My name is Morag Vance, I'm representative from the 123rd District, which is Trumbull, and I'm here primarily to speak on Committee Bill No. 27.

I don't have a great deal of testimony to offer you other than to indicate my support for this legislation. We did try last term to get legislation through; in fact, in order to cover bases not only did Howard Owens submit this bill which I signed onto, but I had submitted a bill which would allow subpoena power just for Trumbull. And we did take the necessary steps on a local level to have the council authorize that we ask here in Hartford for this authority. I do, however, feel that certainly it's a better situation to have this statewide. I would, however, hope that you're going to look to the issue of authorizing the establishment of ethics commissions.

As I understand it, those of us who have charters are able to establish an ethics commission, and my particular community did so under charter; but there may be other communities in the state who have established ethics commissions and done so without state statutory authority. So really what I am saying is I do believe this is a necessary tool; I hope that we will not see is used very frequently, but I do think that the ethics commissions established throughout the state should have the necessary power to do a thorough investigation, not only to find those people who are committing wrongs but to clear those who are charged unfairly. And I would hope too that should you look to state statutory

REP. VANCE: (continued)
authority that you provide that this be an equitable commission so that we won't have the type of political game playing that's also possible whereby a minority can pick on the majority or the reverse in an election year. This was intended to give the public a feeling that their elected officials are serving them properly. And I therefore would encourage you to come out with the authority -- allowing the authority for subpoena power. Any questions?

REP. NIEDERMEIER: Rep. Parker.

REP. N. PARKER: I do have a question. Do you have a problem in your town? Is this why the bill?

REP. VANCE: We had about three years ago some questionable activities on the part of people who were politically involved, such as someone who was on the Planning & Zoning Commission who owned property, was developing property and needed permission from the Wetlands to establish this property and there was some question as to whether or not the issue was treated on its own merit or was treated on the basis of the applicant. And in order to clear the air on an issue such as that, should someone decide to go the official route of filing a formal complaint, then the matter could be looked into and cleared for both the benefit of the public and for the benefit of the individual who was trying to develop the property.

REP. N. PARKER: I'm a little concerned, and you mentioned it, and you mentioned it about the abuse of this. This is very strong power to give municipal officials.

REP. VANCE: Well, in our particular community the establishment of the ethics commission allowed the appointment of a five-member board. And the five members were picked -- I think -- with a great deal of concern toward the possibility of conflict. One of the ministers in our community was selected and became the chairman. Another attorney who was not politically involved was selected; as was another gentleman who had had experience in dealing with ethics in the Veterans Association. The people selected are certainly the key to the manner in which the ethics commission will function. And there as in any other aspect of local government, I think it's the responsibility of the appointing officials to select wisely. They are going to be under public scrutiny and if there is abuse, then again like anything

REP. VANCE: (continued)
else, Nina, we don't really have too many options. We either hide our head in the sand and say we won't do anything, or we hope that this will be used wisely.

REP. N. PARKER: Thank you.

REP. NIEDERMEIER: Just one comment and then a question. I appreciated your statement which we did submit into the record at our hearing last week. The support for the bill, you were joined by approximately 10 people with oral or written testimony, which I think is --

REP. VANCE: I'm sorry I wasn't able to make it, Chris, (inaudible)

REP. NIEDERMEIER: I appreciate that. I wanted to let you know that your statement was submitted to the record.

REP. VANCE: Fine.

REP. NIEDERMEIER: Let me ask you another question and that's your suggestion that we authorize ethics commissions is a good one, because in the problem with non-charter towns. Some of the issues that came up at the hearing last week were, if we do authorize subpoena power there ought to be some guidelines -- some general state guidelines that we impose in order to insure as you say that the commission carries out its responsibilities in a nonpolitical manner. I wonder if you have any comments either for or against proposals such as to stagger the terms of the appointments so that their terms would not be co-terminous with that of the municipal officials; to require that local ethics commissions not utilize the town attorney but instead hire their own; a third one which I think you implied you would be in favor of is the minority representation so that there would be a balance in any town.

REP. VANCE: What I've found is that, at least in our particular community and those surrounding us, when the ethics board -- when the ethics commission was established they were then allowed to draft the regulations. I would not like to see us be too narrow in terms of saying as an ethics commission you must go this route, because I think ethics commissions of communities are individual. Each community, just as each government is separate, must have some leeway do determine how they want their ethics commission to function, how much authority they want to have. I have never really supported

REP. VANCE: (continued)
the idea of coterminous terms. I think you do need some consistency and I think you develop consistency by staggering terms so that those people who are appointed who have developed experience and expertise in the area are able to help those who are newly appointed. The only good thing about being in conjunction with the First Selectman and Mayor of the community is that if there is a change in government you would change the ethics commission, but then again you're liable to get too political. If you have people appointed on the basis of perhaps I will be the person in office and should there be a charge against me, I want someone sitting on that commission who will be fair no matter what the political aspect of the issue. I think we would have better appointees -- the quality would be better.

So I would personally feel staggered terms should be recommended, whether or not they're mandated -- you might find some communities under charter have all their boards and commissions work with their First Selectman or Mayor.

REP. NIEDERMEIER: Yes.

REP. VANCE: In which case you might be rocking the boat. I don't have enough background material --

REP. NIEDERMEIER: I think that's what I meant. I probably stated it incorrectly. What I meant was terms that are not initiated at the same time as your municipal officials so that they couldn't come in reappoint --

REP. VANCE: My basic preference would be that they not be in conjunction with the elected officials. And what was the second aspect of your question?

REP. NIEDERMEIER: It had to do with whether we ought to require ethics commissions to hire their own attorney or give them the option to utilize the town attorney who may or may not be under the influence of local officials.

REP. VANCE: Again, I think that depends on the municipality involved, Chris, because some communities have several part-time attorneys. You might be able to utilize one of those attorneys who doesn't deal directly with the administration, or with that aspect of government that the complaint deals with. If you have three attorneys, one does Planning & Zoning, one does local government, you might be able to

REP. VANCE: (continued)
utilize the other. I'm a great one for trying to save money if possible. Also I would think that most ethics commissions are not that active, and your retainer factor could be perhaps not quite justifiable if you're inactive for a year. Again, I think you've got to be flexible on it.

REP. NIEDERMEIER: O.K. Thank you very much.

REP. VANCE: Thank you. My big moment!

REP. NIEDERMEIER: Can we turn the T.V. lights off now and the cameras? Are there any other witnesses? Betty Gallo from Common Cause.

MS. GALLO: My name is Betty Gallo and I'm executive director of Common Cause. I don't have a prepared statement this morning. This is one of four public hearings I'm speaking at in 24 hours, and I just didn't get to it. I did want to make a couple of observations about the two bills in front of you. First was An Act Concerning Lobbying Disclosures by Investors in Gambling Facilities.

I looked at this and I have not been able to speak to the introducers, but it seems to say to me that if they spend $25 they must register, if they spend $1 on lobbying, they must register. Our cut-off point for registration by lobbyists is $300 and I think that is a fairly small cut -- kick-off point -- in other words, you do not have to register as a lobbyist until you spend $300. I can't imagine someone doing much lobbying spending much time lobbying and not spend $300, so I'm not sure that there's any need to make this special exception for people involved with gambling. There may be times where that kind of special exception or special coverage for people involved in that particularly sensitive area would be necessary -- I'm not sure this area. I can't believe anyone doing any substantial amount of lobbying for the gambling industry is going to spend less than $300 of money or time doing that. It doesn't make sense to me.

The only concern I would have on that would be if this committee rules that they would like to put a 10-hour exemption on the amount of time that you can lobby free that has been proposed by the Connecticut Business and Industry Association. I would like to say at this point that though we have no objection to such a ten-hour rule, we would have an objection to a ten-hour rule plus being able

MS. GALLO: (continued)
to spend $300 on wining and dining. And I think this could be especially sensitive in the area of gambling. In other words, a lobbyist could spend 9-1/2 hours lobbying and then $299 wining and dining and still not have to register. I think that you might need a lower amount cut-off point less than $300 beyond your salary if you're going to put in a 10-hour limit.

The other provision was to include judges and the code of ethics for public officials. People who were here last year realize that we tried to do this last year -- put judges in the act. The year it was passed, the judges were in all the way up to the Judiciary Committee, where they were taken out. So I mean it's not something new. What we did last year was somewhat of a compromise but when you look at it I think it's probably the best of two worlds. What we did is -- probably the strongest provision of the code of ethics in the first place is the provision that requires financial disclosure. We do not have a strong conflict of interest statute -- something that I've been hammering away at this session -- so that the strongest provision is the financial disclosure.

We got passed last year financial disclosure by judges to the Judicial Review Council. The Judicial Review Council is the constitutionally established body who has the right to suspend a judge, censor a judge, even remove a judge. They have an incredible power over the judiciary; and when you look at that power, a power that the ethics commission would not have, it makes a lot of sense to have the financial disclosure being made to that council. One provision we insisted on last year when we were working on this is public disclosure and we did get that. So judges now make public financial disclosure to the Judicial Review Commission. We think that that is the way it should be because of the powers that that commission has. I'm not sure there's anything to be gained by putting them under the ethics code. There might even be something to be lost because of the ethics commission does not have the power to remove judges or even suspend or censor them. So I would -- I would think that you should take a real close look before you make that kind of move, to see what we're going to gain. I haven't seen what we're going to gain from that. That's all I had to say. I'm sorry I didn't have time to prepare anything for you.

REP. NIEDERMEIER: Thanks Betty. May I just ask you one clarification point? You mentioned that in terms of gambling, you

REP. NIEDERMEIER: (continued)
would recommend if a ten-hour exemption is adopted that the floor or $300 be lowered. Is not the way the current suggestion by CBIA as presented, it doesn't even have a $300 floor in it, doesn't it -- could not someone lobby up to 10 hours and receive or expend $10,000 and still not have to report?

MS. GALLO: Oh, no. No, no.

REP. NIEDERMEIER: No? O.K.

MS. GALLO: The way, the way the 10-hour thing has been drafted, you may spend 10 hours and your salary can be $10,000, O.K.?

REP. NIEDERMEIER: Yeah.

MS. GALLO: But if you spend over $300 on anything else, ads, wining and dining or anything, you kick into the law. What we were proposing -- and not just for gambling, we're just saying gambling illustrates the sensitiveness of this issue -- is that you keep the 10-hour rule -- in other words you can lobby 10 hours and your salary does not count towards the $300; but as soon as you spend maybe $100, you kick into the law and then your salary counts, everything counts. That the kick in point for other things like wining and dining and ads, etc. -- wining and dining is probably the big one, because I doubt anyone's going to run an ad campaign for $300 it's -- you'd have a very small ad campaign for $300.

So I think wining and dining is the big one. And we just said not that we think this should be aimed at gambling, but we think it should be aimed at everyone.

REP. NIEDERMEIER: O.K. but that's in terms of expenditures. One can still be paid $10,000 (inaudible) lobbying, --

MS. GALLO: so salary can be $10,000 or 9 hours, but if you divide that, you know, I don't know how many people in the State of Connecticut make a $1,000 an hour -- there are a few I understand --

REP. NIEDERMEIER: I still think it's a big loophole.

MS. GALLO: Yup. Well, you know, I'm just saying not that we are saying you should do this, but if you do it, we want you to

MS. GALLO: (continued)
look at the other expenditure limits and I did provide the chairman of this sub-committee with a copy of the Washington State Law which does have a time provision, and if Nina'd like to see it.

REP. N. PARKER: I have it.

MS. GALLO: O.k.

REP. NIEDERMEIER: Thanks very much.

MS. GALLO: Thank you very much.

REP. NIEDERMEIER: Is there anyone else who wishes to testify? O.K. Thank you very much. (inaudible)

SEN. OWENS: I'm sorry, I would have like to have been here. For the record, my name is --

REP. NIEDERMEIER: O.k. go ahead

SEN. OWENS: For the record, my name is Howard Owens, Jr., Senator from the 22nd Senatorial District. I am here to testify in support of An Act Concerning the Subpoena Power of Municipal Ethics Commissions. I -- Committee Bill No. 27. As you know there are two subpoena power bills pending before the General Assembly, and I believe pending before this Committee.

One of the bills provides specifically for subpoena powers giving subpoena powers to the town of Trumbull.

REP. NIEDERMEIER: Oh, Howard, that bill was boxed.

SEN. OWENS: It was, all right.

REP. NIEDERMEIER: Yes. So would you speak of your bill.

SEN OWENS: I'm glad to see that they have taken that action with respect to that bill. I think to single out any community in the state would be unconscionable. I do feel if we are to have a municipal ethics commissions and we have allowed the legislature have that type of legislation and provided for this type of legislation so that municipalities can have it, then it follows as night follows day that they should have the subpoena powers to protect those individuals who have

SEN. OWENS: (continued)
complaints or those people who have -- are interested in pursuing the inquiries. I am a little bit concerned, I know that Mr. Kellis has written me a letter -- Dr. Kellis has written me a letter -- indicating that there are problems with it. And pointing out the serious difficulties that there is not enough protection given if you do give subpoena powers. However, I -- an I realize his points. I think that some of his points are well-taken but when we look at the overall effect, if we do have these types of bills such as ethic commission bills, we have to see the long-range effect on this type of legislation. If we have it, we have to have the subpoena powers to go with it.

To have a commission of this sort without giving them powers to issue subpoenas and to compel the subpoena, makes commissions of this sort just toothless tigers that have no effect or just would be window dressings for the communities. If they really want to do something about problems to ferret out problems involving ethics, problems involving conflict of interests in the communities and so forth, the only way you can do it is with the subpoena power.

I introduced this legislation a year ago and for some reason or another it didn't get out of committee. I don't think there was a great deal of support for it. But I would ask the committee when they are considering this that if they should not pass the legislation or the legislature should not come up with enabling the legislation authorizing these types of commissions unless they give subpoena power. It seems to me that it's just -- it's ludicrous to have this type of legislation passed unless you give effective tools so that commissions can have -- can work with it and have the power to issue subpoena and I think it's very, very important.

And I am aware of Dr. Kellis's statements; he sent me a copy of his letter. I have the highest respect for him and I do have a high regard for his position, but I think when you look at the overall picture, it is important to have the subpoena powers.

REP. NIEDERMEIER: Sen. Parker.

REP. N. PARKER: Representative, you've just promoted me. Thank you. (laughter) I have not seen the letter you're referring to, but I am concerned that giving such strong powers to a

REP. N. PARKER: (continued)
so-called lay committee. They are not attorneys in all probability. That the power would be abused or the potential for abuse either through directly through knowledge or through lack of knowledge would exist. These are very strong powers we talking about.

SEN. OWENS: O.K. I think you're right, but I think that the -- one, I think that you can handle it just like you handle the police commissioners have the right to issue subpoenas or whoever the -- is in charge of the police department, whether it's a, you know, the chief executive. Certainly in most charters, he's given -- he or she is given subpoena powers. I think that you can assign as in most agencies -- municipal agencies -- they have town counsel, they have corporation counsel. There's no reason -- most of the town counsel and corporation counsel are paid on salary basis. There's no reason why the counsel can't go over and handle that in an evening like they do for any other agency. There's no reason that they're prohibited from doing it.

And I agree with you that they should have some way of making certain that it just doesn't turn into a road show or it doesn't turn into something that people's reputations are being damaged. But what it really points down to -- there's a great -- the danger or damage to someone's reputation is far greater by having this type of commission and having statements issued, pronouncements issued by a commission, or having individuals come before the commission and giving testimony that's not controlled by subpoena, where the commissioner doesn't have an opportunity to refute the same by bringing other individuals in by issuing subpoenas. And I think that if you handle it by subpoena and by compelling testimony in many instances, you are going to get a much fairer result than you would otherwise. As you know, if you issue a subpoena, there is no restriction that would not provide for an individual to bring an attorney with you. In other words, if you were issued a subpoena to go before a municipal ethics commission, there's no reason why a lawyer or an attorney can't be provided or that an attorney wouldn't go with the individual who was subpoened and make sure that the commission didn't act in a high-handed or did not overreach with respect to their powers.

What I'm saying to you is that I think that if you put this type of legislation on the books and you have municipal ethics commissions and they have no way to really dig in and to

SEN. OWENS: (continued)
ferret out any abuses that there might be with conflict of interest statutes or with ethics bills or ethics problems that are confronting the municipalities, then you really have done an injustice by having this -- I think it's really just phony type legislation to have that type of legislation unless you're giving the concomitant powers to make sure that the ethics commissions can investigate and find out what the problems are.

REP. N. PARKER: I wasn't thinking the abuse so much as the person appearing before the municipal ethics commission, but the lack of legal knowledge of the commission to follow through on the procedure.

SEN. OWENS: O.K. In most of your communities around the state, you'll find that your police commissions and so forth generally speaking they try to keep lawyers off of the boards; even Zoning Boards, I think it's a good idea to keep them off because I think -- not -- and I'm an attorney, and I say this to you in all sincerity, I think that sometimes lawyers have a tendency to get too involved in technicalities and see problems that really don't exist. And I think it's good to have so-called layman flavor -- you know, and have these boards essentially lay boards.

But by the same token, in all of these police commissions, if they run into difficulties or many of your Zoning Boards your Zoning and Planning Commissions and Zoning Boards of Appeals do have attorneys that are assigned to them by the municipal authority. All right? So I think that it's very possible that the attorney that's assigned, the corporation counsel in the big cities or the town attorney can certainly advise on these type of things.

I don't think that this bill that was drafted initially, the municipal and passed -- the enabling act for municipal ethics commissions -- was designed to create witch hunts in any communities. I think that you have to be very, very careful that there's not an abuse there because you can hurt an awful lot of people's reputations. But if in fact, there's a serious problem and there is a feeling in the community that there's conflict of interest or that there is violations of ethics before that particular -- in that particular municipality or in that municipal community, then of course, the only thing that can be done short of referring the matter for prosecution which is probably a drastic action

SEN. OWENS: (continued)
in some circumstances, is, in fact, to have the municipal ethics commission like we have here but to have the subpoena power. If you don't have the subpoena power, what's the sense in having the bill really when it comes down to it. There really isn't any -- I can't see any reason to have that type of legislation unless you do have subpoena power so that you can have people in and have them testify. It seems to me particularly in small towns that there a great deal -- many times if you have zoning problems, there's a great deal of innuendo and a great deal of whispering and intimations and people are doing wrong, either pro or con, those support it or those who are opposed. And, I do think that some of that can be as damaging and a lot of that can be put to rest if there are those types claims by issuing subpoenas and asking people to come in and stand up and be counted. And, if there's situations that require it, that they come in and put this matter before a municipal ethics commission when it's on the record.

But, I really don't see how you can have an effective municipal ethics commission under any circumstances unless you do have the power of subpoena. I don't know how you can do it. There are a lot of people who won't testify unless there is a compelling reason for it. I'm not so sure that you should go one step further when you think about this. If the testimony was given in a court of law, obviously, there would be an immunity attached. In other words, if I said that I saw you solict a bribe or something of that sort, and it was said in the courtroom and that testimony was given by me in a courtroom, obviously, I would be -- have some immunity or a great measure of immunity from prosecution under those circumstances. I'm not so sure that you should not build in that type of immunity here. I think that's important that you have that here.

And, I think that it's important that if you want good public spirit, good cooperation from your public as a whole, you have to make sure that if you do issue a subpoena or you do ask them to come and testify before a municipal ethics commission, that you make certain that they're not buying a law suit by their testimony also. So, I'm not so sure that you shouldn't build that type of a safeguard in there, and I think if you do build that type of a safeguard in there, it might solve your problems with this particular piece of legislation. Thank you.

REP. NEIDERMEIER: Can I just ask you two quick questions? There have been some suggestions at another hearing and discussing

REP. NEIDERMEIER: (continued)
with the staff that there might be some sort of protections in the bill that would prevent abuses such as requiring minority representation, may specifying staggered terms and maybe specifying a town attorney not be utilized by the commission but they retain an independent attorney. Do you have any feelings one way or the other on this?

SEN. OWENS: I think you should, obviously, you have minority representation. That's essential. I can understand the problems in a municipality if you hire the municipal attorney who is a paid full-time attorney, whether it's corporation counsel, whether it's town counsel, especially if the target happens to be the chief executive of the community and he's hiring him -- he or she that there could well be a problem with that of itself. But the minute you have a municipal ethics commission, you decide to hire -- if they decide to hire a lawyer, then they come up with the problem of who is going to pay for it. All right? And, this is something -- whether five thousand or five hundred or ten thousand dollars, that always does create a problem. I can understand the problems of not having a municipal -- the same municipal attorney giving advice to the particular board in some instances.
Cas 2 But, I do think that if you're going to have -- I think that this type of legislation is self-defeating if you do not have the subpoena powers. And, I do agree with you that you should build in safeguards. You should build in immunity and so forth, if you're going to have this type of -- I do think you should -- you do immunity if you're going build in this type of -- if you're going to have this type of legislation.

REP. NEIDERMEIER: O.K. Just one last question. Under section 51-85 of the statutes, which authorizes attorneys to issue subpoenas in connection with an administrative proceeding, in that case the Kellis -- the Board of Ed, the Board of Selectmen versus Kellis, the court mentioned that at the end the opinion that you never really got to the issue of whether the town attorney himself could have issued it because the issue was raised on lower court level, does the Board of Selectmen have the power? It seems to me they left the door open a little bit in terms of whether -- if we could show that an ethics commission was -- that their proceedings constituted an administrative proceedings, although it's questionable that we could prove that, maybe we could show that already the subpoena power exists. I wonder if you have any opinions on that? Do you think we ought to go forward --

SEN. OWENS: I think that the broad principles of administrative law -- that the municipal ethics commission could be considered as a that type of agency and would adopt the rules pursuant to the Administrative Procedure Act. And then, of course, the town council whoever it may be acting for the municipality or whoever is acting for the municipal ethics commission could, therefore, issue a subpoena that would be a valid subpoena. That would be my opinion.

REP. NEIDERMEIER: So, that would tend to obviate the need for legislation. That's what the problem -- unless we want to -- unless we use it as a way of formally authorizing ethics commissions and clarifying subpoena power.

SEN. OWENS: That would be my interpretation. Obviously, no judge or whoever decided the case, decided to pass on that issue or not face squarely the point that was raised there and if that is the problem, this is your vehicle to remedy this situation. But, I do agree that you should -- I think that Representative Parker pointed out the problems with this type of legislation and I think if you build the immunity provision into it, I think that you obviate the drastic consequences that could flow from an abuse here.

REP. NEIDERMEIER: Thanks very much, Howard. I appreciate your comments.

SEN. GUNTHER: Senator, did you speak about Senate Bill 7 at all?

SEN. OWENS: Which one was that? The Act?

SEN. GUNTHER: Senator Gunther from the 21st Senatorial District, and seeing that you are so in that and I wanted to impress you with the fact that I don't put frivilous bills in, I'd like to speak on Senate Bill 7. I'm surprised that Judge Owens didn't speak to this.

Actually, what this would do is bring judges under the provisions of the Code of Ethics for Public Officials. Frankly back a couple of years ago when we passed this it came to the floor, I put the amendment in that would do -- accomplish this putting the judges in the judicial system under our Code of Ethics. The bill just historically, to give you a little background -- I think it almost unanimously passed the Senate and it was passed for about a half an hour until the boys got together and run back and all of the sudden discovered that they thought that it would be unconstitutional for us to

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The machine may be closed. The Clerk please tally the vote.

Result of the vote:

Total Voting	35
Necessary for Passage .	18
Voting Yea	35
Voting Nay	0

THE CONSENT CALENDAR IS ADOPTED.

THE PRESIDENT:

Senator Lieberman.

SENATOR LIEBERMAN:

Mr. President, I move for suspension of the rules to allow for immediate transmittal to the House of those items that should go to the House.

THE PRESIDENT:

Hearing no objection, so ordered.

THE CLERK:

The Clerk has received a Change of Reference - Favorable report of the joint standing Committee on Government Administration and Elections, Substitute Senate Bill 27, AN ACT EMPOWERING MUNICIPALITIES TO ESTABLISH ETHIC COMMISSIONS.

THE PRESIDENT:

Referred to Committee on Judiciary.

THE CLERK:

The Clerk has no further business.

THE PRESIDENT:

Senator Lieberman.

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SENATOR SKOWRONSKI:

Thank you very much. I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE CHAIR:

The question is on acceptance and passage. Will you remark Senator?

SENATOR SKOWRONSKI:

Thank you Mr. President. This Bill would provide that the DEP undertake a study of serious siltation and tidal flow problems in the Jordan Cove as well as pollution and erosion problems. There was much testimony at the public hearing that it's a very serious problem which deprives the people that live in that area of access to their property at certain times and if there is no objection I move that it be placed on the Consent Calendar.

THE CHAIR:

Further discussion on the Bill? Objection to the Motion to place on Consent? Hearing neither, it is so ordered. The item is on the Consent Calendar.

THE CLERK:

Clerk will turn to page 30. We had an item on page 29 that's been marked passed retaining so, the top of page 30, Calendar 818, File 804, Unfavorable Report of the Joint Standing Committee on Judiciary, Substitute for Senate Bill 27, AN ACT EMPOWERING THE MUNICIPALITIES TO ESTABLISH ETHICS COMMISSIONS.

THE CHAIR:

Senator Owens - these petitions, I customarily recognize the Chairman of

a Committee affected first, prior to recognizing any other person out of courtesy to the Chairman of the Committee, unless you have beenassigned to act in his stead.

SENATOR OWENS:

Far from it Mr. President.

THE CHAIR:

We are on page 30, Calendar 818, Senate Petition No. 69. Senator DePiano.

SENATOR DE PIANO:

Mr. President, I move to accept the Unfavorable Report of the Committee on Judiciary in regard to the - AN ACT EMPOWERING MUNICIPALITIES TO ESTABLISH ETHICS COMMISSIONS.

THE CHAIR:

The question is a Motion before theChamber to support the Committee's Unfavorable Report. Will you remark, Senator DePiano?

SENATOR DE PIANO:

Yes. The Committee took this Bill into consideration and duly reviewed the Bill and felt that under the circumstances, that our present law covered the situations where the particular subpoena that they were talking about has already been ordered by our law. In other words, what I'm saying is this - I think that this is an extremely dangerous precedent to start by issuing subpoena power to an ethics commission of a local municipality and if there is any wrongdoing in a municipality, certainly we have the State's Attorney, the

Chief State's Attorney and all the various assistants to do the investigation. I'm always concerned when we issue or grant subpoena powers to individuals that a witch hunt could ensue and that many innocent people could be hurt merely by the fact that they were subpoenad by an ethics commission to go before that particular commission. I think it's an area that the best judgment of the Judiciary Committee should be adhered to. We gave the Bill due consideration. We think under the circumstances that the Bill originated because of one isolated incident that occurred in the Town of Fairfield which was ultimately straightened out, from what I understand. So under the circumstances, I would urge this Circle to sustain the Unfavorable Report of the Committee on Judiciary and not give subpoena power to an Ethics Commission, on a local level.

THE CHAIR:

The Chair recognizes Senator Owens.

SENATOR OWENS:

Thank you Mr. President. Mr. President, I would ask the Circle to reject the Unfavorable Report of the Committee on Judiciary for the following reasons. First of all, we have in the State of Connecticut, some 44 municipalities that have, thru their charters or thru their regulations or thru their governing bodies, come up with legislation establishing ethics commissions and one of them has occurred in the Town of Fairfield. I have another one in the town of Trumbull, but in any event, there are some 44 towns, including some of our larger cities - New Haven, for instance, has it s own ethics commission. We have the City of

Norwalk with an ethics commission; West Hartford has an ethics commission; Fairfield, Manchester and in all of these instances, the ethics commissions have worked out fairly well. However, this statute would in effect, allow all the municipalities in this state to enable all the municipalities to come up with an ethics commission and would give them the power to have subpoena powers as well. It should be pointed out that most of the commissions in the state, for instance the police commissions that have been empowered by the legislature to issue subpoenas and they have this. What I am seeking here, is just enabling legislation; one, to enable the municipality to have a municipal ethics commission if they want to, and two, if they want to have that, they can elect at that stage whether they want to issue subpoena powers. All we're doing is giving them the opportunity to do so. We're not mandating that if they have an ethics commission it must have subpoena powers. That rests with the municipalities, but the municipalities should have the right if they want to, to have subpoena powers for themselves, if we give them the enabling provisions.

Now, Senator DePiano makes much of the fact that the state attorney and the chief states attorney, are designated in the counties throughout the state to ferret out crime and so forth. The purpose of the ethics commission is not necessarily to look for criminal activities. Many times, there are genuine issues of facts that have to be created or that have to be answered to with respect to conflicts of interest within the particular communities and the only way that they can get to determine whether or not a conflict exists is to determine

whether or not there are certain facts and many times these facts have to be brought to light with subpoenas. Now, it seems to me that there is ample precaution for all of the people under this statute or this enabling act, should the municipalities take the time and should they be interested in having the subpoena powers once they have an ethics commission to determine whether or not they want to act with this and use the subpoena powers and I'm sure that the ethics commissions that are appointed by the various chief officials or the chief executives in the municipalities, will in fact, make certain that only the most scrupulous individuals are appointed to these commissions and then I am sure that there will not be an abuse. But to say that the state's attorneys can do all of this and they can go out and investigate is far from the truth. They don't have the time to do that now. We're not looking for criminal activity. We're looking for possible conflicts of interest and obviously we're not looking for witch hunts. Obviously the Chief Executives of the community, whether it be New Haven, Norwalk or any of the places where we already have existing legislation has the power and will appoint the right and proper person to make this determination. So I say I'm not asking this legislature to mandate or to in any way require any municipality in the State of Connecticut to have subpoena powers. All I'm saying is give them the right to have subpoena powers if in fact, they want them. They need them now in many instances. They're crying out for it and in one town, there's already been difficulty because the town attorney did not have the right to issue subpoena powers. I can only point out there is nothing novel about this. Our police commissions in the State of Connecticut have it. Also,

in those communities where chief executive acts as the police commission, he in turn, has it. So again, it's enabling. I ask for those reasons that the report of the Judiciary Committee, the Unfavorable Report, be rejected and I'd ask Mr. President, that after you've announced the Roll Call, would you explain the vote for the Members of the Circle please.

THE CHAIR:

You are asking for a Roll Call as well?

SENATOR OWENS:

I am Mr. President, thank you.

THE CHAIR:

It shall be so ordered. Will you remark further? Hearing no further remarks - Senator Ballen.

SENATOR BALLEN:

Mr. President, if I may - Thank you Mr. President. I would like to associate myself with the remarks of Senator Owens and urge overturning the Committee's Unfavorable Report. There are some 44 communities that have these ethics commissions. They provide a valuable service, but they are totally meaningless and without any power at all unless you give them the power of subpoena. The situation which Senator Owens referred to, did in fact, happen in Fairfield. A gentleman made certain damaging accusations against the First Selectman and other prominent members of the Board of Selectmen and the Zoning Board in Fairfield and when the

ethics commission started to investigate the case, they asked him to come and give his testimony before the commission and he refused, because he said - subpoena me and they attempted to subpoena him and then, for the first time, they learned that they did not have the power of subpoena. Now, had they had the power of subpoena, he could have been forced to come in and make his charges publically and before the Commission. This way, by slur and innuendo, he made the charges, reputations were tarnished and they were damaged and the people had no opportunity to defend themselves and one further point that Senator Owens did not cover, Mr. President, and that is the respondent in that case said - If I were supoenad I would come and testify and then my testimony would be privileged and I would not be liable to any civil action for the testimony I gave. But since you don't have the power of subpoena, you don't have the power to grant me immunity on my testimony and, therefore, I will not appear and testify.

So, from both standpoints, from the standpoint of getting the person there to testify and offering him the protection of appearing under subpoena, I would urge that you overturn the Committee's Unfavorable Report and allow the municipalities, if in their wisdom they deem it necessary, to subpoena witnesses. I believe that they should have the power to bring witnesses in to testify before them. These are serious charges that are being made in various towns throughout the state and the ethics commissions deserve the power of subpoena. It's as simple as that and that's what this Bill is all about. It merely gives a local ethics

commission a power of subpoena that they can bring witnesses before them to testify as to the truth or false of statements that they have made or matters before them or within their knowledge. Thank you.

THE CHAIR:

You're welcome, Senator. Will you remark further? Senator DePiano.

SENATOR DE PIANO:

Just very briefly, Mr. President. You know, today's been an unusual day for Bridgeport and I've been on the opposite side of the aisle, so to speak, with Senator Owens and I'm quite concerned, because I have to depend on him for a ride home tonight. But, I must speakagainst this Bill. I think the integrity of our Committee must be respected. We did give the Bill, as I said, due consideration. We are not against ethics commissions as such, but certainly granting subpoena powers at random to these commissions wherein they can subpoena anybody they want on any subject matter, without any restrictions, without any safeguards of any kind certainly would be defeating our whole purpose here in the United States. Thank you.

THE CHAIR:

Will you remark further? Senator Owens.

SENATOR OWENS:

Yes. Very briefly for the second time, I just want to correct Senator DePiano in one area if I may, and what he said. We're not giving the munic ipalities subpoena powers for their ethics commissions. All we're saying to the

municipalities is if you have an ethics commission, you may have subpoena powers if you so elect to use them. We're giving them that opportunity to do that.

THE CHAIR:

Will you remark further? Having heard from the transportation expert and also transporter of the evening, are you ready to vote? Announce an immediate Roll Call please.

THE CLERK:

Immediate Roll Call has been ordered in the Senate. Would all Senators please return to the Chamber. Immediate Roll Call in the Senate. Would all Senators please take their seats.

THE CHAIR:

We are on page 30, the top of the page, Calendar 818, Senate Petition No. 69. The Chair recognized the Chairman of the Committee on Judiciary, Senator DePiano first. Senator DePiano moved that the Committee's Unfavorable Report be upheld. Senator Owens moved that the Committee's Unfavorable Report be overturned. If you vote yes, you sustain the Unfavorable Report. If you vote no, you overturn the Committee and the item is properly before us. The machine is open. Have all Senators voted? The machine is closed and the Clerk will take a tally.

The vote is:

15 YEA

21 NAY

The Committee's Unfavorable Report is overturned. The item is properly

before us as a Favorable Report. Senator Owens.

SENATOR OWENS:

Mr. President, at this time, without further comment, I would move the adoption of the Bill.

THE CHAIR:

The question is on adoption. Will you remark further? Senator DePiano.

SENATOR DE PIANO:

Yes. I would like to announce that I won't be riding home with him. I'll be going with Senator Santaniello.

THE CHAIR:

Will you remark further? Hearing no further remarks, call an immediate Roll Call and the machine will be opened. We are voting on the Bill itself.

THE CLERK:

Immediate RollCall in the Senate. Would all Senators please come to the Chamber.

THE CHAIR:

The machine is open. Have all Senators voted? The machine is closed. The Clerk will take a tally.

The vote is:

25 YEA

11 NAY

The Bill is passed. Proceed with the Calendar.

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DEPUTY SPEAKER COATSWORTH:

Tabled for the Calendar.

CLERK:

Change of Reference.

Favorable Report of the Joint Standing Committee on Government Administration, Bill No. 27, AN ACT CONCERNING THE SUBPOENA POWER OF MUNICIPAL ETHICS COMMISSIONS. Committee having met, recommends bill be referred to Committee on Judiciary.

DEPUTY SPEAKER COATSWORTH:

So ordered.

CLERK:

List of Bills No. 56.

REP. GROPPO: (63rd)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Groppo.

REP. GROPPO: (63rd)

I waive the reading of the List of Bills and that they be referred to the appropriate committee.

DEPUTY SPEAKER COATSWORTH:

Is there objection? Hearing none, it is so ordered?

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FINANCE, REVENUE AND BONDING

H.B. No. 6153 (COMM) Finance, Revenue and Bonding. 'AN ACT CONCERNING OMNIBUS REFORM FOR FAIRNESS IN TAXATION', 1) Sections

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REP. GROPPO: (63rd)

May this be passed temporarily, please?

DEPUTY SPEAKER COATSWORTH:

Is there objection? Hearing none, the item will be passed temporarily.

CLERK:

Calendar No. 1590, File No. 804, Substitute for Senate Bill No. 27, AN ACT EMPOWERING MUNICIPALITIES TO ESTABLISH ETHICS COMMISSIONS. Unfavorable Report of the Committee on Judiciary.

REP. NIEDERMEIER: (134th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Niedermeier.

REP. NIEDERMEIER: (134th)

Mr. Speaker, I move rejection of the Committee's Unfavorable Report in concurrence with the Senate.

DEPUTY SPEAKER COATSWORTH:

The question is on rejection of the Unfavorable Report. Will you remark?

REP. NIEDERMEIER: (134th)

Mr. Speaker, this bill was voted out by the Government Administration and Elections Committee. Unfortunately, it was voted out very late in the session, too late for the Judiciary Committee to take action on the bill. The legislation before us

serves two functions. First, it gives municipalities the discretion to establish local ethics commissions. Currently, already 53 localities have ethics commissions and also have codes of ethics, but this clarifies that it is already a permissible function.

Secondly, it gives municipalities only the discretion, does not mandate, but gives them the discretion to give those ethics commissions subpoena power. The Committee voted it out unanimously after long hearings. It's a good bill and I would move rejection of the Unfavorable Report.

DEPUTY SPEAKER COATSWORTH:

The question is on rejection of the Committee's Unfavorable Report. Will you remark further?

REP. HANLON: (70th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Neal Hanlon.

REP. HANLON: (70th)

Mr. Speaker, through you I'd like to pose a question to the proponent of the bill.

DEPUTY SPEAKER COATSWORTH:

Please frame your question, sir.

REP. HANLON: (70th)

Through you, Mr. Speaker. Rep. Niedermeier, you indicated that several communities do presently have ethics commissions.

Could you indicate how many communities do have such commissions?

DEPUTY SPEAKER COATSWORTH:

Rep. Niedermeier, would you respond to the question?

REP. NIEDERMEIER: (134th)

Mr. Speaker, through you, 53.

DEPUTY SPEAKER COATSWORTH:

Rep. Hanlon.

REP. HANLON: (70th)

Through you, Mr. Speaker, then why do we need this piece of legislation if communities already do in fact have ethics commissions?

DEPUTY SPEAKER COATSWORTH:

Excuse me, sir. The House please come to order. Members please be seated. The House please come to order. Members please be seated. Staff and guests come to the well of the House. Rep. Neal Hanlon, please frame your question, sir.

REP. HANLON: (70th)

Thank you, Mr. Speaker. My question through you. In view of the fact that some 53 or 54 communities do already have ethics commissions, my question is, what is the need for this legislation?

DEPUTY SPEAKER COATSWORTH:

Rep. Niedermeier, to respond.

REP. NIEDERMEIER: (134th)

Mr. Speaker, through you, there is currently no State authority

for the existing ethics commissions, other than that which has been implied and applied only in the instance of charter towns. Under Title 7 of the statutes, charter towns can protect and promote the peace, safety, good government, etc. of the town, and charter towns have used that language as a basis upon which to authorize themselves to establish commissions. Non-charter towns currently have no authority under the statutes.

REP. HANLON: (70th)

Thank you, Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Will you remark further on the rejection of the Committee's Unfavorable Report? Will you remark further? If not, will the members please be seated. Staff and guests come to the well of the House. The machine will be opened. The Chair would at this time explain the vote: to reject the Unfavorable Report, vote yes. To sustain the Committee's Unfavorable Report, vote no.

The House of Representatives is voting by roll call at this time. Will all members please return to the Chamber. The House of Representatives is voting by roll call at this time. Will all members please return to the Chamber.

REP. HANZALEK: (61st)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Hanzalek.

REP. HANZALEK: (61st)

May I be recorded in the affirmative, please?

DEPUTY SPEAKER COATSWORTH:

The Clerk will so note. Rep. Hanzalek wishes to be recorded in the affirmative.

Have all the members voted? And is your vote properly recorded? Have all the members voted? Is your vote properly recorded? If so, the machine will be locked. The Clerk will please take a tally.

The Clerk will please announce the tally.

CLERK:

Motion to reject Committee's Unfavorable Report on Senate Bill No. 27.

Total number voting	145
Necessary for passage of the motion	73
Those voting yea	131
Those voting nay	14
Those absent and not voting	6

DEPUTY SPEAKER COATSWORTH:

The Unfavorable Report is rejected.

REP. NIEDERMEIER: (134th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Niedermeier.

REP. NIEDERMEIER: (134th)

Mr. Speaker, I have already discussed the merits of this bill and I would urge passage.

DEPUTY SPEAKER COATSWORTH:

The question is on passage of the bill. Will you remark? Will you remark further on the passage of the bill?

REP. MAZZA: (115th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Vito Mazza.

REP. MAZZA: (115th)

A questionto the proponent, please.

DEPUTY SPEAKER COATSWORTH:

Please frame your question, sir.

REP. MAZZA: (115th)

Rep. Niedermeier, Section 3, line 13, the committee or other agency to investigate allegations of unethical conduct and further on, it states that they may issue subpoenas. Would you say that those people that in office could then pursue frivolous subpoenas against other people that are seeking the same office and make frivolous claims, even though the individual is not convicted of unethical conduct? The mere fact that a subpoena has been issued against him, would constitute adverse publicity which really in effect could affect local elections in a most serious manner.

DEPUTY SPEAKER COATSWORTH:

Rep. Niedermeier to respond to the question.

REP. NIEDERMEIER: (134th)

Mr. Speaker, through you, I believe that there are two, at least two protections built into the proposed legislation. First, the membership of that particular ethics commission would have to be comprised of individuals from both the majority and the minority party in that particular town. I think that provides the protection when you're speaking in terms of the incumbent, first selectman or mayor.

Secondly, the individual who is subpoenaed to appear before the commission, that individual if he felt that he was being harrassed or did not wish to disclose certain information, could go to court and ask the court to quash that subpoena. That is the normal subpoena procedure.

Thirdly, I would just point out that again, under this legislation, municipalities do not have to give their ethics commissions subpoena power.

DEPUTY SPEAKER COATSWORTH:

Rep. Mazza, you have the floor, sir.

REP. MAZZA: (115th)

Thank you, Mr. Speaker. I understand the outgrowth of this bill or the reason for this bill, was because of a problem in the town of Fairfield. Would you be able to comment on the origin of

this bill, Rep. Niedermeier, and who were the people that supported it.

DEPUTY SPEAKER COATSWORTH:

Does the lady care to respond to the question?

REP. NIEDERMEIER: (134th)

Mr. Speaker, through you, this legislation was introduced by Senator Howard Owens, whose district does not include any part of Fairfield to my knowledge, but also Senator Mike Ballin, and he does represent Fairfield. However, I don't think it's an issue that's of importance only to Fairfield. Just by the note that we have 53 ethics commissions existing around the State. There was a particular suit that was brought to Superior Court in Bridgeport, which denied the ethics commission in Fairfield the power to subpoena, because such was not authorized under the statutes.

And this is meant to give not only Fairfield, but communities around the state, the opportunity to discretion if that community wants to, to establish commissions and to give them subpoena power.

DEPUTY SPEAKER COATSWORTH:

Rep. Mazza.

REP. MAZZA: (115th)

Through you, Mr. Speaker, does the Freedom of Information Commission, the Ethics Commission and the Elections Commission have subpoena powers?

REP. NIEDERMEIER: (134th)

Mr. Speaker, I --

DEPUTY SPEAKER COATSWORTH:

Rep. Niedermeier.

REP. NIEDERMEIER: (134th)

I do not know.

DEPUTY SPEAKER COATSWORTH:

Rep. Mazza.

REP. MAZZA: (115th)

Through you, Mr. Speaker, if someone on the Judiciary Committee or the Chairman is available, if anyone can furnish that answer to me, I would appreciate it.

DEPUTY SPEAKER COATSWORTH:

Does the chairman of the Committee on Judiciary care to respond to the question?

REP. TULISANO: (29th)

Would the questioner please repeat the question?

REP. MAZZA: (115th)

Yes, Representative. Can you tell me if the Freedom of Information, Ethics and Elections Commission have subpoena powers?

DEPUTY SPEAKER COATSWORTH:

Rep. Tulisano, would you respond?

REP. TULISANO: (29th)

Through you, Mr. Speaker. I don't have the answer to that

question. I would think that GAE might be aware of that, more properly.

SPEAKER ABATE:

Will you remark further on the bill?

REP. MAZZA: (115th)

Yes, Mr. Speaker.

SPEAKER ABATE:

Rep. Mazza.

REP. MAZZA: (115th)

I don't see any large outcry for legislation of this type and I have to rise to oppose the bill. It seems to me even though the make-up of this commission, which will be made up of both majority and minority parties in the town, I think could be used in an adverse manner for those political opponents of certain people in the town, to bring frivolous claims and issue subpoenas which yes, can be quashed in court. However, the adverse publicity that can surround such activity I think would be detrimental to elected officials in all the towns of this state.

Mr. Speaker, I think this legislation is not needed. And I would urge the House to reject it. Thank you.

SPEAKER ABATE:

Will you remark further on the bill?

REP. VANCE: (123rd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Morag Vance.

REP. VANCE: (123rd)

Thank you, Mr. Speaker. I can understand what Rep. Mazza says concerning the misuse of subpoena powers in conjunction with an ethics commission. But in my particular community, which is a charter community, we formed an ethics commission. We authorized the formation. We waited almost two years for the regulations to be drafted which would pertain to that ethics commission. During that interim, we had a local election, and I was a candidate in it. And it was very easy for me to make charges concerning the current administration and know that that current ethics commission, even though it was there in name, it had not adopted regulations and therefore the individual who was my oponent did not have the opportunity of having the records cleared.

So this is a two-way street. If you play the game in a clean fashion, you have nothing to be concerned about. I would think that giving ethics commission subpoena power would allow administrators and elected officials the privilege of seeing that their record was clean, and in our particular case a person can't just make a charge. They must come in, in writing, submit that charge to the ethics commission. The ethics commission will meet and determine whether or not the charge seems to have any validity and from that point on they will hold a hearing. Beyond that point would be when

they might need subpoena power to get the necessary proof. I really would urge you to allow first of all, the legal formation of ethics commissions. And then secondary, give them the right to subpoena if the right is necessary. It may save many elected officials from false charges. Thank you.

SPEAKER ABATE:

Will you remark further?

REP. MAZZA: (115th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Mazza.

REP. MAZZA: (115th)

I appreciate the remarks of Rep. Vance. However, I think there's ample opportunity and ample vehicles in the State of Connecticut presently. We have prosecutors, we have the Human Rights and Opportunities Commission. We have the Ethics Commission. I don't think we need this legislation. I think it's a tool for those people that are entrenched in their cities. I think it's harmful legislation and I urge the body to reject it.

SPEAKER ABATE:

Will you remark further on the bill?

REP. NIEDERMEIER: (134th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Christine Niedermeier.

REP. NIEDERMEIER: (134th)

Mr. Speaker, just two final points. One, in answer to Rep. Mazza's question, I have been informed that the Freedom of Information Committee does have subpoena power. And secondly again, to remind the members, as you can read from the file, this legislation is only permissive. A town would have to, by ordinance or charter, specifically give that town permission to establish a commission and give that town permission to utilize subpoena power. I would urge passage of the legislation.

SPEAKER ABATE:

Will you remark further? Rep. Otto Neumann.

REP. NEUMANN: (62nd)

Thank you, Mr. Speaker. Through you, a question to Rep. Niedermeier.

SPEAKER ABATE:

Proceed, please, sir.

REP. NEUMANN: (62nd)

Rep. Niedermeier, my concern is your last statement, that the town would have the option of allowing the local commission to use subpoena powers. My reading of the file would indicate that the town would have the option to create such a commission, but once created the commission would be able to use subpoenas at its discretion and the towns would have no further authority.

I refer you to line 16 and 17 where it says any board or commission, etc. established under this, pursuant to this section, may issue subpoenas. It does not give the town the right to prohibit it doing it. Am I misinterpreting the file, please?

REP. NIEDERMEIER: (134th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Niedermeier.

REP. NIEDERMEIER: (134th)

Mr. Speaker, through you. My answer would be that on line 18 we used the same permissive language that we use earlier in describing the ethics commissions. We said that they may issue subpoenas. And in addition, I think it should be pointed out that the other two new sections, which really go hand-in-hand with this section, if you look back to Section 7-148 and 7-194, they require in a charter town that the charter be amended and in a non-charter town that an ordianance be passed. And in many towns that have passed ordinances, they will specifically state that the commission will be comprised of so many members and the commission will have certain powers.

SPEAKER ABATE:

Rep. Neumann.

REP. NEUMANN: (62nd)

Thank you, Mr. Speaker. Through you again, for further

clarification, Rep. Niedermeier. I still raise the question of once a town has decided through ordinance or charter to have a board, commission or etc., for purposes of an ethics commission, the town cannot prohibit that group from using the subpoena power as I read this file. In other words, the decision to have this automatically confers that board with the right to issue subpoenas. Is that, am I misinterpreting the language?

REP. NIEDERMEIER: (134th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Niedermeier.

REP. NIEDERMEIER: (134th)

Mr. Speaker, through you, the intent of the legislation in both the Committee and on presentation to the Senate and on presentation here is that it is only permissive. That establishing a commission does not imply the power to issue subpoenas. That would have to be separately authorized.

SPEAKER ABATE:

Rep. Neumann, you still have the floor, sir.

REP. NEUMANN: (62nd)

Thank you, Mr. Speaker. I can understand that may be the intent, but I fail to say that that's what the language says. It seems to me that there would be an automatic conferral of right of subpoena. But I go one step further. When we get into the

question of subpoenas and these powers, it seems to me to establish a commission with no requirement that there be attorneys as members or that it have attorney before it starts issuing subpoenas, is giving to a group of citizens a chance to misuse some of the tools of the laws, in court and I would therefore urge rejection of this bill.

SPEAKER ABATE:

Will you remark further?

REP. MAZZA: (115th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this bill? Rep. Mazza.

REP. MAZZA: (115th)

May I have permission for the third time for a question?

SPEAKER ABATE:

If you're just going to ask a question, sir, you don't need permission.

REP. MAZZA: (115th)

Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Mazza.

REP. MAZZA: (115th)

Rep. Niedermeier, is it my understanding in your indications that this is in effect in certain towns in the state?

SPEAKER ABATE:

Rep. Niedermeier.

REP. NIEDERMEIER: (115th)

Mr. Speaker, through you. I'm unclear. Is what in effect in certain states?

REP. MAZZA: (115th)

The establishment of ethics commissions in municipalities, is that now in effect in certain cities?

SPEAKER ABATE:

Rep. Niedermeier.

REP. NIEDERMEIER: (115th)

Mr. Speaker, through you, in 53 towns and cities.

REP. MAZZA: (115th)

Do any boards, do any other boards --

SPEAKER ABATE:

Through the Chair, Rep. Mazza.

REP. MAZZA: (115th)

Through you, I'm sorry, Mr. Speaker. Do any of the boards or commissions in the municipality have subpoena power? Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Niedermeier, you have the floor, madam.

REP. NIEDERMEIER: (134th)

Mr. Speaker, through you, I do not know. I have not reviewed

the charters of those 53 towns.

REP. MAZZA: (115th)

Through you, Mr. Speaker, as I understand it, none of the other boards or commissions of a municipality have subpoena powers and if I read the statute correctly, and I'm not an attorney, through you, Section 7-194, powers to the provisions of Section 192, all towns, cities, buroughs which have a charter which adopt or amend a charter have the power to sue and be sued and to institute, prosecute, maintain and defend any action and proceeding in any court of competent jurisdiction. It seems to me, through you, Mr. Speaker, if we've got 53 towns in the state that have an ethics commission, it's fairly obvious that we don't need the legislation.

There's presently power in the statutes to do this. We do not allow any other municipal board or commission to have subpoena powers. Why must we do it with this board or this commission? Mr. Speaker, I oppose the legislation. I urge everyone else to do so.

REP. SORENSEN: (82nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Sorensen.

REP. SORENSEN: (82nd)

Thank you, Mr. Speaker. The town which I come from, or the

city which I come from, Meriden, has had an ethics commission for many years. We have had very few cases which have been referred to the ethics commission in Meriden, and those that have been referred, have gone through a just hearing process, as Rep. Vance has already stated as the case in her town. And there are certain city boards that do have subpoena powers. And those are the boards of aldermen, or the city council. Or a committee of the board of aldermen or of the city council. They do have subpoena power.

That exists in the city of Meriden and I'm sure that power is in many other charters throughout the State of Connecticut. So we do confer the power of subpoena upon a city board or commission, that being a board of aldermen or city council. In the four years that I was on the city council in Meriden, I cannot recall once us using the power of subpoena. And I know previous to that, to my knowledge, there has never been the use of subpoena by a city council committee or the council as a whole.

I think Rep. Mazza's fears are unfounded. This is totally a permissive piece of legislation. The word may is permeated throughout the legislation. I say let's stop the talking, get down and vote, because this is only permissive.

REP. RITTER: (6th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further? Will you remark further on this bill?

REP. RITTER: (6th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Ritter.

REP. RITTER: (6th)

Mr. Speaker, I rise to support this bill. I think it's important to recognize that subpoena powers are important for both people who are being accused as well as for people who are accusing. Often if one is accused of something, the only way he's surely going to be able to prove his innocence is by the use of subpoena power. It cuts both ways. So that if we're going to have this commission, it seems to me they should have the subpoena power to make sure that there will not be frivolous actions that will result only in smears, but with no absolute proof, and most especially without the right of a defendant or somebody accused to get the information that is required in order to make it very clear what the facts are.

I support the bill with the subpoena power.

SPEAKER ABATE:

Will you remark further on this bill? Will you remark further? If not, will all the members please be seated. Would all staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time.

Would the members please return to the Chamber immediately. The House is voting by roll at this time. Would the members please return to the Chamber immediately.

REP. HANZALEK: (61st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Hanzalek.

REP. HANZALEK: (61st)

In the affirmative, please.

SPEAKER ABATE:

The Chair will so note, madam.

The Clerk please announce the tally.

CLERK:

Senate Bill No. 27.

Total number voting	144
Necessary for passage	73
Those voting yea	91
Those voting nay	53
Those absent and not voting	7

SPEAKER ABATE:

The bill passes.

CLERK:

Calendar No. 1628, File No. 852, Substitute for Senate Joint Resolution No. 51, RESOLUTION PROPOSING AN AMENDMENT TO THE