

Legislative History for Connecticut Act

SB 648	PA 526	1987
House 10110, 11994-11999		7
Senate 3866-3871, 3893-3894, 5186-5187, 5206		11
G. A. E. 368-372, 386-388, 405, (406-407) 408, (409-416) 416- 429, 468-470, 518-525, (533- 538)		$\frac{51}{69}$

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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H-476

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1987

VOL. 30
PART 27
9787-10158

abs

5

House of Representatives

Wednesday, May 27, 1987

objection, Calendar 834 is recommitted.

CLERK:

Page 15, Calendar 909, Substitute for Senate
Bill 648, AN ACT CONCERNING PROTECTION FROM HARASSMENT
UNDER THE FREEDOM OF INFORMATION ACT. (As amended by
Senate "A" and "B"). Favorable Report of the Committee
on JUDICIARY.

REP. MARKHAM: (34th)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Markham.

REP. MARKHAM: (34th)

Mr. Speaker, may this bill be referred to the
Committee on Judiciary?

SPEAKER STOLBERG:

The motion is to refer to the Committee on
Judiciary. Is there objection? Is there objection?
Seeing no objection, it is so ordered.

CLERK:

Page 10, Calendar 825, Substitute for House
Bill 7581, AN ACT CONCERNING AUTHORIZATION OF BONDS
OF THE STATE FOR THE PURCHASE OF CERTAIN RAILWAY LINES

H-481

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1987

VOL. 30
PART 32
11695-12025

pt

298

House of Representatives

Monday, June 1, 1987

SPEAKER STOLBERG:

The bill as amended is passed.

CLERK:

Back of the bus, on Page 20, Calendar 909,
Substitute for Senate Bill 648, AN ACT CONCERNING
PROTECTION FROM HARASSMENT UNDER THE FREEDOM OF
INFORMATION ACT, as amended by Senate "A" and "B".
Favorable Report of the Committee on Judiciary.

REP. COURTNEY: (56th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Joseph Courtney.

REP. COURTNEY: (56th)

Mr. Speaker, from the back of the bus, I move
acceptance of the Joint Committee's Favorable Report
and passage of the bill in accordance with the Senate.

SPEAKER STOLBERG:

Rep. Courtney, just a moment please. Thank
you ladies and gentlemen. Rep. Courtney.

REP. COURTNEY: (56th)

May I proceed, Mr. Speaker.

SPEAKER STOLBERG:

Please.

pt

299

House of Representatives

Monday, June 1, 1987

REP. COURTNEY: (56th)

This bill was a bill to provide some protection for harassment under the Freedom of Information Act. It basically provides the commission with some ability to go to court in cases of frivolous complaints that are brought with the intent of harassment only, and it's being offered in accordance with the commission's very careful objections to whether or not it would restrict the flow of complaints to their agency.

The Clerk has an amendment, which I believe is Senate Amendment.

SPEAKER STOLBERG:

LCO 7421, Senate "A". Would the Clerk please call.

CLERK:

LCO 7421 designaged Senate "A" offered by Sen. Maloney.

REP. COURTNEY: (56th)

May I be allowed to summarize.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, Rep. Courtney.

REP. COURTNEY: (56th)

Yes, Mr. Speaker. The operative lines in this

pt

300

House of Representatives

Monday, June 1, 1987

amendment are lines 103 through 110 and basically, it allows for the courts to have an in camera inspection of documents that are the subject of an FOI appeal. It is to clarify a situation of court review which Rep. Woodcock raised a moment ago during autopsy legislation that was considered earlier, and it was basically to allow the courts an opportunity for in camera inspection in cases where there is a contest regarding disclosure.

It was again at the request of the FOI commission that this was offered, and I would move its adoption.

SPEAKER STOLBERG:

Will you remark further on Senate "A". Will you remark further? If not, all those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted. Will you remark further? Rep. Courtney.

REP. COURTNEY: (56th)

Mr. Speaker, there is also another amendment, LCO 7677 that I would asked to be called and I be allowed to summarize.

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pt

301

House of Representatives

Monday, June 1, 1987

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7677. Will the Clerk please call.

CLERK:

LCO 7677 designated Senate "B" offered by Sen. Meotti et al.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, Rep. Courtney.

REP. COURTNEY: (56th)

Yes, Mr. Speaker. This is an amendment brought under the germaneness of harassment to allow conservation officers to have the power of arrest in harassment of hunter cases. It's somewhat afield of the Freedom of Information Commission's original bill. However, it is tied in on the word of harassment.

The conservation officers already have powers of arrest in many other areas. Apparently they asked for this power to be extended in cases of violation of the criminal penal code, 53-183a. I talked to Rep. Mushinsky and she doesn't have any great objection to it. I personally don't have any strong feeling, but I would move its adoption.

pt

302

House of Representatives

Monday, June 1, 1987

SPEAKER STOLBERG:

Will you remark further? Rep. Frankel.

REP. FRANKEL: (121st)

Yes, Mr. Speaker. First, let me remark that I believe the problem that this endeavors to solve does not need solving because it's contained in a revisor's bill and the sponsors upstairs, I believe, are mindful of that. Notwithstanding that, in order to clarify and be consistent with our rules, I'll raise the Point of Order that this matter is not properly before us as it is not germane.

SPEAKER STOLBERG:

A Point of Order raised by Rep. Frankel is that Senate "B", LCO 7677 is not germane to the bill as amended. The Point of Order is well taken. The amendment is not properly before us. Will you remark further? Will you remark further? If not, will members please be seated. Staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Will members kindly return to the Chamber. The House of Representatives is currently taking a roll call vote. Will members please return to the Chamber immediately.

pt

303

House of Representatives

Monday, June 1, 1987

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted and is your vote properly recorded? Have all the members voted? If all the members have voted, the machine will be, have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

CLERK:

Senate Bill 748 as amended by Senate "A".

Total number voting 141

Necessary for passage 71

Those voting yea 134

Those voting nay 7

Those absent and not voting 10

SPEAKER STOLBERG:

The bill as amended is passed.

The Clerk please continue with the Call of the Calendar.

CLERK:

Page 9, Calendar 271, Substitute for House Bill 7459, AN ACT CONCERNING A STUDY OF THE PROSPECTIVE PAYMENT SYSTEM, as amended by House "A" and Senate "A".
Favorable Report of the Committee on Appropriations.

S-272

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1987

VOL. 30
PART 11
3771-4111

THURSDAY
May 21, 1987

359 3866
ned

of sale other than those tenants that are already within
the project. If there any question, I would ask...

THE CHAIR:

Further remarks? Senator Robertson.

SENATOR ROBERTSON:

Yes, Mr. President, if I might through you, sir,
inquire if Senator DiBella would be willing to explain that.
I realize it's twenty of 11, but his explanation made about
as much sense as mud.

THE CHAIR:

Senator DiBella, would you care to respond?

SENATOR DIBELLA:

Yes. Mr. President, could we...

THE CHAIR:

The Senate will stand at ease. Senator DiBella.

SENATOR DIBELLA:

Yeah, can we PT this, Mr. President?

THE CHAIR:

Hearing no objection, the item is PT'd. Will the
Clerk call the next item.

THE CLERK:

Turning to Calendar page 2, Calendar 435, File 630,
Substitute for Senate Bill 648, AN ACT CONCERNING PROTECTION

THURSDAY
May 21, 1987

260
ned 3867

FROM HARASSMENT UNDER THE FREEDOM OF INFORMATION ACT.
Favorable Report of the Committee on GOVERNMENT, ADMINIS-
TRATION AND ELECTIONS.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Mr. President, I believe procedurally
the bill has already been moved and we were calling for
amendments when it was PT'd because there was one more
amendment in the Clerk's possession than I believe I had.

THE CHAIR:

Does the Clerk have an amendment?

THE CLERK:

Mr. President, LCO 7421 was previously called and
designated Senate Amendment Schedule "A". It's offered by
Senator Maloney of the 24th District.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Yes, Mr. President, I would move adoption of the
amendment.

THE CHAIR:

Would you care to remark?

THURSDAY
May 21, 1987

361 3868
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SENATOR MALONEY:

Yes, what this amendment does is provide in a circumstance where there is a record in a Freedom of Information contest that is denied access by the person or party seeking the record. There's an appeal procedure that leads first to the Commission on the Freedom of Information and then ultimately to the court. Technically that document however has never been included in the record, because it's been excluded by the very definition of the appeal.

What this definition does is allow a court to review that document that has been excluded and in camera make a determination whether or not the document has been properly included or improper, excuse me, properly excluded or improperly excluded and then the court can take that document into consideration when reviewing the record of the Freedom of Information Commission and the agency below. So it's an important, but technical correction to the Freedom of Information Bill...

(tape doesn't overlap, a few words are missing)

THURSDAY
May 21, 1987

362 3869
dez

Bill which was supported by the Government Administrations Elections Committee and the Freedom of Information Commission staff and appears here as an amendment, because I believe it was one of the Bills which was then not taken up by the Judiciary Committee due to time constraints.

THE CHAIR:

Will you remark further? We will vote on the amendment, all those in favor the Amendment "A" signify by saying aye.

SENATORS:

Aye

THE CHAIR:

Those opposed nay. The ayes have it. The amendment is adopted. On the Bill as amended.

CLERK:

Mr. President, there is a second amendment. It's LCO 7677, Designated Senate Amendment, Schedule "B", offered by Senator Maloney of the 24th district and Senator Meotti of the 4th district.

THE CHAIR:

Senator Meotti.

SENATOR MEOTTI:

Thank you, Mr. President. I move adoption of the

THURSDAY
May 21, 1987

363 3870
dez.

amendment and for a matter of correction, I'd note that it is offered by myself and Senator Gunther of the 19th and this amendment would permit conservation officers to enforce the hunting harassment statutes.

THE CHAIR:

You have moved the adoption of the amendment, Senator?

SENATOR MEOTTI:

Yes I have, Mr. President. Further remarks? All those in favor of Senator Amendment "B", please signify by saying aye.

SENATORS:

AYE

THE CHAIR:

Those opposed nay. The amendment is adopted.

CLERK:

Mr. President, there are no further amendments.

THE CHAIR:

Senator Maloney, you want to remark on the bill as amended?

SENATOR MALONEY:

Thank you, Mr. President, yes. The bill as amended sets up a procedure whereby there is Judicial relief from repeated harassing actions or requests for informa-

THURSDAY
May 21, 1987

384/ 3871
dez

tion from a public agency.

There has been some examples of abuse of the Freedom of Information process in the State of Connecticut. This bill would provide a means by which that abuse could be Judicially controlled. I would say that, again, the Government Administrations Elections Committee worked every hard on this Bill. Took into consideration the viewpoints of the Freedom of Information Commission and in order for anyone to be brought under the sanctions of this bill, they would have to, in effect, deliberately and repeatively attempt to harass a public agency.

There is no...regardless of how many times, however, they did that, anytime they brought a legitimate request not frivolous for a proper purpose, they would not be barred.

THE CHAIR:

Will you remark further? Senator Maloney.

SENATOR MALONEY:

Mr. President, thank you. I would move this matter to the consent calendar.

THE CHAIR:

Hearing no objection, this item is placed on the consent calendar.

THURSDAY
May 21, 1987

386
ned 3893

please return to the Chamber.

THE CHAIR:

Give your attention to the Clerk. The Clerk will make announcement of those items that have been placed on the Consent Calendar.

THE CLERK:

Beginning on page 2, Calendar 435, Substitute for Senate Bill 648, Calendar page 5, Calendar 648, Substitute for House Bill 7389, Calendar page 9, Calendar 672, Substitute for Senate Bill 1200, Calendar page 11, Calendar 681, Substitute for House Bill 6161, Calendar page 12, Calendar 689, Substitute for House Bill 7356.

Calendar page 14..

THE CHAIR:

...Can we have order? The Clerk will continue.

THE CLERK:

..Calendar page 14, Calendar 698, Substitute for House Bill 7573. Calendar page 16, Calendar 708, Substitute for Senate Bill 505, Calendar 711, Substitute for Senate Bill 970. I believe that that completes the 5th Consent Calendar.

THE CHAIR:

Any deletions from the Consent Calendar? The

THURSDAY
May 21, 1987

387
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machine is open. Has everyone voted? Senator Gunther,
Senator Matthews, Senator Gunther, Consent Calendar.
Has everyone voted? The machine is closed. The
Clerk will call the tally.

32 Yea

0 Nay

The Consent Calendar is adopted.

Senator Casey, do you have good news or bad news?

SENATOR CASEY:

Good news, 110 to 101, Celtics!

(applause)

THE CHAIR:

Senator O'Leary.

SENATOR O'LEARY:

I'll yield to Senator DiBella.

THE CHAIR:

Senator DiBella.

SENATOR DIBELLA:

Thank you, Mr. President. Tomorrow at 9:30 there
will be a meeting of the Finance, Revenue and Bonding
Committee in W-36.

THE CHAIR:

Senator O'Leary.

S-275

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1987

VOL. 30
PART 14
4816-5199

TUESDAY
June 2, 1987

52
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5186

Substitute for Senate Bill No. 648, AN ACT CONCERNING PROTECTION FROM HARASSMENT UNDER THE FREEDOM OF INFORMATION ACT. (As amended by Senate Amendment Schedules "A" and "B"). Favorable Report of the Committee on JUDICIARY. The House ruled that Senate "B" was not germane.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Mr. President, I would move acceptance of the Joint Committee's Favorable Report and adoption of the bill in concurrence with the House.

THE CHAIR:

Would you remark?

SENATOR MALONEY:

Yes sir. The amendment that the House deleted was not to the essence of the legislation I would suggest that perhaps it was indeed germane, but I would defer to the judgment of the House in this matter, the legislation without it stands well and does the job intended.

THE CHAIR:

This was before the Chamber before. Do you wish to make further remarks? Senator Maloney.

TUESDAY
June 2, 1987

53 5187
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SENATOR MALONEY:

If there is no objection, Mr. President, I would
move the matter to the Consent Calendar.

THE CHAIR:

Without objection? It is so ordered.

THE CLERK:

Calendar 570, File 835, Substitute for Senate Bill
No. 313, AN ACT REQUIRING THE REGISTRATION OF MECHANICAL
CONTRACTOR ORGANIZATION. (As amended by Senate Amendment
Schedule "A"). Favorable Report of the Committee on
JUDICIARY. House added amendments Schedules "A" and "B".

THE CHAIR:

Senator Thomas Sullivan.

SENATOR THOMAS SULLIVAN:

I move acceptance of the Joint Committee's Favorable
Report and adoption of the act in concurrence now with
the House.

THE CHAIR:

Would you remark?

SENATOR SULLIVAN:

As you know, the House amendments clarify up some
technical language and some ambiguities and also has the
provision that if in the event a mechanical contractor is

S-276

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1987

VOL. 30
PART 15
5200-5550

TUESDAY
June 2, 1987

72 5206
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House Bill No. 7581. Calendar 869, Substitute for House Bill No. 6114. Calendar page 3, Calendar 873, Substitute for House Bill 5510.

Calendar 874, Substitute for House Bill No. 7595, Calendar page 4, Calendar 879, Substitute for House Bill 5940. Calendar 435, Substitute for Senate Bill 648.

Calendar 570, Substitute for Senate Bill No. 313. Calendar page 5, Calendar 266, Substitute for Senate Bill No. 89. Calendar page 6, Calendar 875, Substitute for Senate Bill 847. Calendar 876, House Bill 5979, Calendar 880, Substitute for House Bill No. 5329. Calendar 881, Substitute for House Bill 7091. That completes the 1st Consent Calendar, Mr. President.

THE CHAIR:

Any corrections or omissions? The machine is open, please record your vote. Senator Matthews. Senator Przybysz. Senator Rinaldi. Has everyone voted? The machine is closed. The Clerk please tally the vote.

The result of the Vote:

32 Yea

0 Nay

The Consent Calendar is adopted.

JOINT
STANDING
COMMITTEE
HEARINGS

GOVERNMENT
ADMINISTRATION
AND ELECTIONS
PART 1
1-417

1993
INDEX

000368

126
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G.A.E.

February 22, 1993

JOYCE WOJTAS: There is already a statute, I believe it is section 31-52 that requires this preference hiring. How well that is enforced, I am not certain. Although to the best of my knowledge, and we do have, our organization is probably 98% Connecticut based, we do have some out-of-staters. And I know that with our out-of-staters, they are union companies and if they do get a project in Connecticut, they become signatory to our negotiated contracts, so that more than likely, you are not going to find a member of ours from out-of-state who is going to be playing games. I hope. Because we wouldn't accept it either.

I mean, they will call us and they do hire from the local hiring hall. Although they do bring in some of their supervisory help when they come in on a job. If they have superintendents and whatnot, they will bring those people in. But there is that statute that is already on the books.

REP. POSS: (inaudible mic n t n)

JOYCE WOJTAS: Correct. And another point, the (HB 5746) manufacturer that talked, the Plexil manufacturer. My thought, he stayed in business. He said he hasn't laid anyone off. Well, he must be doing business somewhere if he is not doing in Connecticut. I mean, if everybody passed preference, we would have to survive just within our tiny little state and I think that that is dangerous. I'm sorry to say.

REP. RAPOPORT: Okay, is there anyone else from the public who would like to speak who has not indicated so? Alright, if not, I want to thank the Committee members for staying. I just want to make a quick announcement, somebody said you ought to make it earlier. I have learned my lesson here. But the next Committee meeting and hearing will be a week from today, Monday, March 1st. And I think what we will do is start the meeting at 12 and the hearing at 1.

And let me suggest that people plan on staying, I think it will be a long and complex hearing. It is all of the election procedure things. It may not be the sexiest stuff, but it is complicated. So, maybe

000369

127
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G.A.E.

February 22, 1993

we will order out to dinner if it looks like we
will go to long. But consider next Monday a big GAE
day.

000370



NATIONAL ORGANIZATION FOR WOMEN CONNECTICUT NOW

Good afternoon, Senator DiBella, Representative Rapoport and members of the Government Administration and Elections Committee. I'm Carolyn Hopley, President of the Connecticut chapter of the National Organization for Women (NOW).

On behalf of NOW, I speak in favor of SB638, AAC Gender and Racial Balance on Boards and Commissions. We urge your support of this bill.

Women are not currently represented with equity in appointed leadership positions on state boards, commissions, committees and councils. To move with intent toward equal representation and with attention to adequate reflection of the racial make-up of the state is a position, we believe, of unassailable fairness.

We believe the existence of qualified women for appointment can be assumed. With the great shift of women over at least the last two decades into the wage work force, there exists a considerable number of women with experience and expertise capable of filling appointed positions.

We believe it is in the best interests of the state in making and implementing public policy to draw on the experiences and understandings of women of diverse racial backgrounds. While all women do not think alike, are uniform in their perceptions, nevertheless the experience of being female in this society is different from being male. This difference is even more pronounced when the factor of race is added. It is imperative to recognize this and to incorporate it into the tenets of government.

To do so appears to cause distinctive shifts. In 1989, the Center for the American Woman and Politics at Rutgers University did a study of Connecticut women appointed to positions as commissioners and deputy commissioners. In part the study, "Cabinet-Level Appointees in Connecticut: Women Making A Difference", concluded,

Both women and men believed that women had had an impact on policies by making the policy agenda more sensitive to children and family issues, by increasing equality of opportunity in employment practices and by increasing sensitivity to the impact of policies on women. ...(women) appeared to exercise leadership in a manner that was less hierarchical, more consensual, more open and more responsive to the concerns and suggestions of their subordinates. (page 21)

FULL EQUALITY FOR WOMEN

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Finally, I would suggest a reason more subtle but no less important. It is the value to girls to see, to know about, women in public positions of authority and responsibility as a way of expanding their own ideas of what they can do and who they can become.

We urge your support of this bill. Now is the time, as we approach the 21st century, to ensure inclusiveness and fairness.

We believe leadership is where you look for it.

Thank you.

2/22/93

CONNECTICUT

State tells Danbury to withhold contractor pay

By Helen O'Neill
THE NEWS-TIMES

DANBURY — In the latest dispute with R.W. Granger & Sons Inc., the city is complying with a state request to withhold payments to the Massachusetts company responsible for renovating Danbury High School.

The state has asked the city to withhold \$8,570 in money owed to Granger, the general contractor, in order to compensate 13 electrical workers whom a subcontractor underpaid.

The withholding is separate from fines the

city already has imposed on Granger for other disputes and delays on the high school and other projects. The total amount of those fines will be determined when the projects are completed.

The electrical workers were hired by Norwalk subcontractor C.W. Pond Inc. They complained a year ago to the city that they were being paid for seven hours a day, not the eight hours they were working. The city referred the complaints to the wage regulation division of the state Labor Department, which launched an investigation in March 1992. The investigation ended earli-

er this month, when division supervisor Sandra Barrachina wrote to the city, asking it penalize Granger. As general contractor on the \$6.5 million high school project, Granger is ultimately responsible for payment to all workers, Barrachina said.

Neither Charles Pond nor Robert Granger, presidents of their respective companies, returned calls yesterday.

But Barrachina said Pond claims not to have been paid by Granger. Pond informed Barrachina that until he gets his money, he cannot pay the electricians.

"Under contract the contracting agency

(the city) has the authority to withhold payments from the contractor and to ensure that all workers are paid properly," Barrachina said.

Construction work at Danbury High School is part of a \$33.9 million renovation project for most of the city's 17 schools. Granger's \$14.8 million share of the work, which includes the high school and Broadview and Rogers Park middle schools, has been dogged by problems from the start.

They include wage complaints, subcontractors who walked off the job and asbestos re-

moval violations committed by a subcontractor at Rogers Park. Barrachina called the number of complaints against Granger "unusual," although she said it was equally unusual that Granger hadn't simply paid the back wages for the electricians after the state requested the money.

This the first time the state has asked the city to cooperate in punishing Granger. Barrachina said several other state investigations into wage complaints involving Granger subcontractors in Danbury were resolved after Granger paid.

CONNECTICUT

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(HB 5746)

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There have been situations when a person will repeatedly ask for hundreds of pages of documents on almost a daily basis, with no apparent need such information. There should be some protection from the costs and time associated with this.

The bill would offer some protection from the filing of frivolous lawsuits, and provide protection for state and local agencies to defend themselves from costly requests.

H.B. 5360 "An Act Concerning the Application of the Freedom of Information Act to Certain Committees"

CCM is not sure of the impact these bills would have on municipal operations.

There are a significant number of municipal officials which believe the Court was correct in *Elections Review Committee of the Eighth Utilities District v. Freedom of Information Commission*, and that the Freedom of Information Act was never intended to regulate committees not comprised of a quorum of the appointing public agency.

It was intended that these committees make recommendations to appointing agencies, who then deliberate and take actions. These actions would be open to public scrutiny.

We must be very careful to not cause a chilling-effect on members of the general public who serve, by protecting their right to privacy.

H.B. 5997 "An Act Concerning the Application of the Freedom of Information Act to Certain Municipal Audit Reports Prepared by Private Auditors"

CCM urges you to favorably report this bill.

This bill would exempt preliminary municipal audit reports prepared by private auditors from the Freedom of Information Act (FOI) requirements.

H.B. 5997 could be seen as a clarification or extension of existing exemptions for preliminary draft reports under FOI, CGS Section 1-19.

Since the reports are works in progress -- very preliminary, and are usually changed substantially -- close scrutiny may actually cast dispersions on municipal operations.

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H.B. 6144 "An Act Granting the State Ethics Commission Jurisdiction Over Complaints Against Municipal Officials"

CCM opposes this bill.

H.B. 6144 would enact a drastic measure for a problem that really doesn't exist. Most municipalities have codes of ethics which establish criteria and standards of conduct for their elected officials to follow. Therefore, there's really no need for such a bill.

If there are indeed problems with the code of a particular city or town, it could be resolved through the local legislative process.

In addition, the State conflict of interest code has already been applied to municipal officials. This already gives a strong, clear position about what is proper conduct for municipal officials.

H.B. 6996 "An Act Concerning Public Record Fee Dispute Jurisdiction"

CCM has several concerns about this bill.

H.B. 6996 would remove the requirement that the Secretary of the Office of Policy and Management (OPM) or such designee conduct hearings for persons aggrieved by a public records request decision.

We think it is beneficial to have such state agency overseeing the appeals procedure. This makes the procedure more informal, quicker, and less costly.

If there are amendments to be made to the computer-stored public records statutes, there should be focus on having the State develop a uniform cost system for all public agencies to follow, to ensure consistency and accuracy throughout the State.

The general public and public agencies would be better-off with such a pricing system.

There is no added testimony for pages 388 - 389.

Bill No: 5746 Committee: Government Administration and Election

Bill Title: An Act Concerning a Preference for State Companies on State
Public Works Projects

Department Position: Opposed

The Department of Transportation opposes the passage of the proposed Bill for the following reasons:

1. Code of Federal Regulations Title 23 paragraph 635.107(e) "Advertising for Bids", specifically prohibits this type of legislation on Federally Funded projects because it shows preference. Federal funding would be jeopardized.
2. This bill restricts the open bidding process by discriminating against out-of-state contractors.
3. This bill erodes the integrity of the low bid contracting system. On contracts with out-of-state bidders, costs would increase as in-state contractors would not have to submit the lowest responsible bid to be successful. Bids of up to five percent higher than a responsible low bid could be submitted by in-state firms and, if out-of-state bidders were not competitive, then a windfall would be received by the in-state contractor.
4. In cases where more than one in-state contractor falls within the range proposed, which bidder would be considered the low bidder if all in-state firms were willing to accept the out-of-state bidders bid price?
5. There is a possibility for increased claims resulting from the procedure. A bidder "forced" to lower its price to obtain the contract may seek to recover the difference in the bids through contract claims. Under arbitration proceedings, arbitrators may view the lowering of the bid to obtain the award as unfair to the contractor and this would be reflected in higher awards to the contractor.
6. There would be an additional cost to taxpayers to implement and regulate this legislation as well as an increase in the cost of certain projects awarded under this legislation.
7. This bill could result in higher construction costs to the state and reduce the number of critical projects which could be undertaken.
8. Joint Venture projects, where one firm is in-state and the other out-of-state, will present a problem.
9. The ramifications of possible reprisal by bordering states should be examined.

Please refer questions to DOT Legislative Liaison David Gilbert at 566-5302.

000407

LEGISLATIVE Bill No. 5746

February 3, 1993

AN ACT PROVIDING FOR A PREFERENCE FOR STATE COMPANIES
ON DEPARTMENT OF TRANSPORTATION PUBLIC WORKS PROJECTS

ADDITIONAL TESTIMONY

SUMMARY OF WORK AWARDED TO OUT-OF-STATE CONTRACTORS

Calendar Year - 1992

Total Contracts Awarded	187	\$364,446,630
Number of Contracts Awarded to Out-of-State Contractors	17 (9.1%)	\$ 66,991,431* (18.4%)
Out-of-State Awards (less 2 Gold Star Bridge Contracts)	15 (8.0%)	\$ 18,330,547 (5.0%)

* Two contracts for the painting of the Gold Star Memorial Bridge were not bid by any in-state contractors due to the strict containment requirements. The value of these contracts was \$48,660,884.

SUMMARY OF SUBCONTRACTORS
BEING UTILIZED ON ACTIVE PROJECTS
AS OF 2-1-93

Total No. of contracts utilizing subcontractors	141	
Total No. of subcontractors being utilized	1325	\$360,267,845
Total No. of out-of-state subcontractors being utilized	169 (12.8%)	\$ 61,555,132 (17.1%)

LEGISLATION REGARDING PREFERENCE FOR
IN-STATE CONTRACTORS BY SURROUNDING STATES

We are unaware of any such legislation in surrounding states.

SOURCES

Officials in the contract offices of Massachusetts, New York and Rhode Island DOT's.

Brian Holmes of the CCIA

Mohawk Northeast, Inc., Newington, CT; Watertown Construction Co., Watertown, CT; Della Construction Co., Inc. of Enfield, CT; all of which have contracts with and/or are prequalified to bid in surrounding states, are unaware of such legislation.



000408

State of Connecticut
HOUSE OF REPRESENTATIVES
STATE CAPITOL
HARTFORD, CONN. 06106

REPRESENTATIVE RUTH C. FAHRBACH
ASSISTANT MINORITY LEADER
SIXTY-FIRST DISTRICT

P.O. BOX 279
WINDSOR, CONNECTICUT 06095

MEMORANDUM

TO: GAE Committee
FROM: Ruth C. Fahrbach
DATE: February 22, 1993
RE: H.B. 5993

I was asked to share the attached with you by Mr. Clack who could not attend today's public hearing.

000409

Dear Editor:

Please consider the following as a "Letter to the Editor".
Thank you.

Ethics Revisited

The Hartford Courant (pg. 1), last July 4th ironically enough, reported a new law revising of the ethics codes which deal with conflicts of interest. This legislation defies common sense, supersedes local customs, and legitimizes actions by politicians in their own self interest!

The issues are evident in a simple example. Suppose you were a politically appointed or an elected politician in a governmental agency overseeing a group of employees. By happenstance or by design you might be a member of that group, an all too often situation when teachers, lawyers, etc., run for office. Or, you might have a spouse, child, other relative, friends or business partners among the employees you supervise. Rules of employment, pay contracts, etc., effecting them necessarily come before your agency and you. Would you have a conflict of interest? I'd say YES! Might your actions mean considerable gain or loss to you, your kin, etc? SOMETIMES! Might the conflict sway your judgments? Common sense says YES!

NOT AT ALL says Connecticut law! This law comes from a bill sponsored by a committee chaired by a teacher and state representative who regularly voted on education issues. The legislature adopted this bill without a single dissenting vote.

According to this bill's sponsors ". . . a conflict of interest no longer exists simply because an elected official has a family member or relative involved in the issue." They reason that any conflict evaporates since the official, family member, etc., fails to gain more than others of the same group."

Thus, our elected state and local representatives have none of the human frailties influencing us lesser mortals.

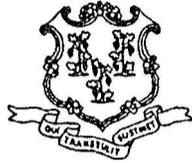
This affront to common sense, this mask of legitimacy given to promotion of self interests at public expense, this abolition of one more criterion voters can use in judging the character and actions of their officials can and should be repealed ASAP!

T. Dean Clack

T. Dean Clack
11 Tinker Drive
Windsor Locks, Ct 06096
days: 643-4158
evening: 623-4855

000410

State of Connecticut



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PERMANENT COMMISSION ON
THE STATUS OF WOMEN
90 Washington Street
Hartford, Connecticut 06106
566-5702

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Senator Thomas Upson
Representative Richard Tullisano
Representative William Wollenberg

TESTIMONY BEFORE THE GOVERNMENT AND ELECTIONS COMMITTEE

FEBRUARY 22, 1993

SENATE BILL #638, AN ACT CONCERNING GENDER AND RACIAL BALANCE ON BOARDS
AND COMMISSIONS

Good Afternoon, My name is Catherine Blinder. I am the Public Information Officer for the Permanent Commission on the Status of Women, and I would like to speak in support of Senate Bill #638, AAC Gender and Racial Balance on Boards and Commissions.

In 1982 PCSW staff was asked by what was then called the Minority Women's Task Force to conduct a survey to determine the membership composition by race and sex of the state's boards, councils and commissions.

The subsequent analysis of that survey showed that women were woefully underrepresented on all of the boards and commissions surveyed. Seventy nine boards responded, with 934 positions filled. Of those, 662 (70%) were men and 272 (29%) were women. 20% of the boards surveyed had no women at all in their membership. The survey also showed only 11% of the 934 members were men and women of color. Of that 11%, 3% were black women, 4% were black men, 1% Hispanic women, 1% Hispanic men, and one each Native American, Asian, and "other". Forty three (43%) of the boards reporting had no people of color in their memberships.

In 1990, PCSW conducted the most recent of its follow up surveys. Of the 110 boards, councils and commissions responding, (representing 1,231 filled positions) only 5 had equal representation. Twenty three of the boards were comprised entirely of males, and 66 of the boards had no minority representation. The representation of people of color on these boards had fallen to 9.5%. The good news is that the representation of women had increased to 38%.

In the interest of fairness, Connecticut must assure that every citizen who is interested and qualified be given equal opportunity to serve on these decision making bodies. This is particularly true for those citizens who have historically been excluded from the power structure. That power structure, even with recent changes, remains white and male.

000411

Women comprise 51.5%, and people of color 13% of all of Connecticut's citizens. To be a truly representational and democratic government, we must make every attempt to include all people in the consideration of any appointment.

Although most of you would agree that this is a noble and necessary effort to further open our governing process, we feel strongly that it will not happen without statutory direction. It's just too easy to rely on the network of individuals that currently exist as an available pool. This is more than an effort toward equal representation, it is an effort to expand that pool of qualified individuals and assist the appointing authorities in their quest for the best and the brightest the state has to offer. If passed and implemented, this legislation would open the doors to more individuals with the talent, skills and desire for public service that our state desperately needs right now.

Someone once said you cannot free the slaves one at a time... it is also true that you cannot open access to government one person at a time, there must be a genuine effort to make meaningful systemic changes that allow and encourage full participation.

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 5266**PROPOSED AMENDMENT TO § 52-568(b)**

The Town of Glastonbury, as well as a few other Towns and public agencies have been and will be subjected to the continuing, increasing waste, disruption, and demoralization by individuals who misuse and abuse the Freedom of Information Act (F.O.I. Act) as a weapon of retaliation and harassment for imagined wrongs.

For Glastonbury, its beleaguered officials and taxpayers, there has been a 15 year history of this kind of abuse, without effective relief. Town officials and employees have not only been and are now subjected to profane, obscene correspondence and drawings, but are diverted and disrupted in the performance of their public duties, with the resulting waste of taxpayer dollars.

The Freedom of Information Commission (F.O.I.C.) recognized this in January, 1989, by issuing Advisory Opinion #71 (A.O. #71) in response to a Petition For Declaratory Ruling by the Town. A.O. #71 is an accurate description of the situation which then and now confronts the Town, and is based upon sound, solid, voluminous record of testimony and documented evidence.

Unfortunately, the remedy chosen and fashioned by the F.O.I.C. was not specifically authorized by the F.O.I. Act, and the Town's request for findings under present § 52-568(b), was not acted upon. As a result, on appeal by the plaintiff, its remedy was remanded back to the F.O.I.C. by the Superior Court in December 1990, for reconsideration of the remedies provided now

by existing provisions. Over the past three years, in that case, and in subsequent appeals, the Town has requested that the findings required by § 52-568(b) be made, in order to allow the Town to seek meaningful, injunctive relief in the Superior Court. For whatever reasons, this has not occurred, and the Town felt compelled to seek amendments to § 52-568(b) in order to provide direct access to such desperately needed, deserved relief.

Coincidentally, the F.O.I.C. also recognizes the hardship of this extreme situation, and the difficulties it has had in implementing or imposing the existing remedies. It has sponsored an amendment to the F.O.I. Act itself (HB #6993) which authorizes the F.O.I.C. to pass a harassing appeal on to the Superior Court.

The proposed amendment to § 52-568(b) also relieves the F.O.I.C. from its participation in the process by providing for direct access to the Superior Court in these extreme situations of abuse, but has several positive features that the F.O.I.C.-sponsored legislation does not, and avoids some negative features that may be created.

1. The proposed 52-568(b) amendment preserves the intent and objective of existing 52-568(b).
2. It provides for full due process and the protection of individual rights.
3. It is an adjustment to an existing statute rather than a major new one.
4. It does not touch the existing Freedom of Information Act.

5. It will not impact, alter or impinge upon the Uniform Administrative Procedures Act, by singling out one agency for special powers or procedures.

6. It exempts the media and journalists.

7. Most important, it provides for affirmative relief under specific, detailed guidelines and standards to be determined by a Court of general jurisdiction after a full hearing.

By contrast, the F.O.I.C. sponsored addition and amendment to the F.O.I. Act would allow an appeal to be passed on to the Superior Court for a typically restricted, narrow review, but without any record upon which to conduct such a review or base the Court's decision.

It cannot be stressed too strongly that 52-568(b) in its present form and the proposed form, have the common objective of providing meaningful, rational injunctive relief in situations of readily-apparent, extreme abuse and misuse of the F.O.I. Act by individuals whose purpose it is to disrupt, harass and cause waste of public employee time and taxpayer dollars.

The Town of Glastonbury has been subjected to hundreds of frivolous, unreasonable and harassing requests and appeals requiring the production of thousands of pages at the cost of hundreds of hours of research, redacting and copying. The illegal purpose of these requests is proven and confirmed by the accompanying, continuous flow of obscene, profane letters and drawings.

000415

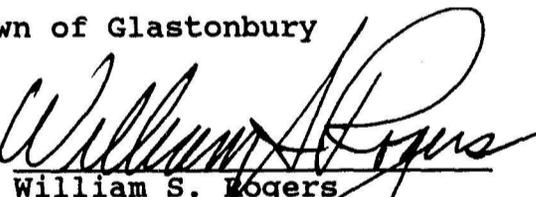
In spite of that the Town has complied with all requests, except those which are of such magnitude, volume and cost as to be harassing on their face. Requests such as: copies of all personnel records of all school system employees (1100); copies of all teacher applications (over 400); copies of all applications for all employees of the police department and Town departments; production of 280 closed Town Attorney files; copies of Glastonbury Police Department daily police log for a ten year period; copies of the first page only of Town Council Minutes for a ten year period, in alternating months and years; and other "serial", alternating requests obviously designed to maximize work and disruption.

It is long past time for this Town, as well as other Towns, to be afforded a clear path to affirmative, injunctive relief in these extreme, documented situations. The proposed amendment to 52-568(b) is the most straight-forward way to accomplish that.

Thank you.

Town of Glastonbury

By



William S. Rogers
Tyler Cooper & Alcorn
CityPlace - 35th Floor
Hartford, CT 06103
(203) 725-6200
Juris No. 00362
- Its Attorneys -

000416

STATEMENT OF SUPPORT FOR SENATE BILL 207
SUBMITTED BY LILLIAN D. CLAYMAN, MAYOR OF HAMDEN, CT
FEBRUARY 22, 1993

PLEASE LET IT BE KNOWN THAT MY ADMINISTRATION SUPPORTS THE CONTENTS OF SENATE BILL NUMBER 207 CONCERNING THE TRANSFER OF PROPERTY FROM THE STATE OF CONNECTICUT TO A MUNICIPALITY FOR USE BY ITS GREENWAY COMMISSION. IN FOLLOWING WITH THE GOVERNOR'S APPOINTMENT OF A GREENWAY COMMISSION, I HAVE APPOINTED A FARMINGTON CANAL COMMISSION FOR THE PURPOSES OF ADMINISTERING A PROGRAM TO DEVELOP THE FORMER FARMINGTON CANAL RAIL LINE INTO A PUBLIC GREENWAY TO BE LINKED WITH SIMILAR EFFORTS BETWEEN NEW HAVEN AND GRANBY.

THIS LEGISLATION WILL ASSIST HAMDEN IN OUR EFFORTS TO ACHIEVE THE GOAL OF RESURRECTING OUR PART OF THIS IMPORTANT STATEWIDE CORRIDOR. THERE ARE MANY ELEMENTS OF THIS EFFORT AND CLEARLY SUCH A MEASURE WILL ALLEVIATE THE CONCERNS OF THE COMMISSION AS IT PERTAINS TO POTENTIAL ENVIRONMENTAL CLEANUP OBLIGATIONS. THE FARMINGTON CANAL LINE IS A HISTORIC LINK OF MANY OF CONNECTICUT'S TOWNS AND THIS ACTION WILL GREATLY ASSIST THOSE TOWNS IN PRESERVING THE CORRIDOR FOR PUBLIC USE.

JOINT
STANDING
COMMITTEE
HEARINGS

GOVERNMENT
ADMINISTRATION
AND ELECTIONS
PART 2
351-689

1987

18
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

SEN. MALONEY: Thank you Representative Hanchuruck.
Representative Schmidle.

REP. SCHMIDLE: Representative Schmidle from the 106th.
I thought that dingy color was that nice antique
hue.

SEN. MALONEY: Beauty is in the eyse of the beholder,
Representative.

REP. HANCHURUCK: I am color blind, so I am sorry

SEN. MALONEY: Any additional questions. Thank you
Sir.

REP. HANCHURUCK: Thank you

SEN. MALONEY: The next speaker is Senator Meotti.

SEN. MEOTTI: Thank you Senator Maloney, other members
of the Committee, I am Senator Meotti from the 4th
Senatorial District, like Representative Anderson
before me, I am a member of the Environment Com-
mittee, and I am sure you will find our comments
would be brief due to our concern for air pollution
and other types of noxious emission. I'll try to
keep it short.

I have introduced a Bill, Senator Bill 648, and
act concerning protection from harrassment under
the Freedom of Information Act, and basically what
this Bill do will be to permit the Freedom of In-
formation Commission to entertain a petition from
a municipality or public agency to issue a protective
order if the public agency or municipality can show
that it is being harrassed under the provision of
the Freedom on Information Act. And would allow the
protective order to request information or pro-
duction of copies of records, but would not allow
the Freedom of Information Commission to do a
protective order to prohibit the right to inspect
documents.

I serve for seven years both as a member of the
Board of Education and a member of the Town Council
agencies subject to the Freedom of Information Act.

19
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

SEN. MEOTTI: (continued)

I am a strong believer in the goals and the principles of the act. I think it is a critical part of democracy in this country and the state, however, I think the act can be used particularly by someone with the financial need to do so, it can be used to harrass local officials. I am not talking about people those of us in the public service might begin (inaudible) as a cadfly, or a pain in the you know what, who comes to every meeting and make requests and all the rest. Those people are an important part of the process, and keep us on the straight and narrow. I am talking about a factual situation which I think later testimony you will hear about, one of former colleagues on a particular town agency in question, and from the town attorney, and other town staff people involved.

I have seen the request, I have seen the obscenity, I have seen the threatening language, I seen the fact that you had to take the request and turn around many times in order to follow the writing. I have seen it all, and in my opinion if there is no safeguard to protect our municiplity against cases like that, we are making a mockery of the Freedom on Information Act, and by doing that we are lessening the respect the average citizen who sees it and reads it, loses a sense of respect for it. I think we start undermining the principles of the Freedom of Information Act by doing that.

You may hear some say that there is adequate protection to the courts, that you may be able to take a declaratory judgement act. I am an attorney I have been involved in declatatory judgement acts they are lengtheny and expensive propostions. I think there should be administrative relieg available with this type of administrative action, and its very limited. I strongly feel it should not be used as an opportunity to shut an individual out completely from public records, but in cases within the Freedom of Information Commission discretion, when it can factually be shown that there

20
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

SEN. MEOTTI: (cnntinued)

are repeated and threatening harrassment and all the rest and I think that they would use that authority very judiciously , I think there should be a protection safeguard for the towns of Connecticut. Thank you.

SEN. MALONEY: Thank you Senator, questions, Representative Schmidle.

REP. SCHMIDLE: Representative Schmidle from the 106th District. Just in this last year we added some new staff for the Freedom of Information office, and one of the staff people act and work as an Ombudsman, and its his particular job to investigate claims like this and to respond to the people who are seeking information, and to local communities and to try to do something to bring both sides together so that they solve the problems without going to court, without having the legal process come into play. Have you looked into this, are you aware of this, or you still feel that (interruption)

SEN. MEOTTI: Yes Representative, I think you will find in this case, as you become more aware of the facts you will see that the individual has been fined by the Freedom of Information Commission. I think while others have the facts and documents in their possession, I think once you take a look at those there any thought in your mind that an Ombudsman can conciliatory or remediatory approach would affect the coming together of the minds in this case, I think that is absolutely out of the question.

REP. SCHMIDLE: To your knowledge, is yours the only town that has had this problem or is in this particular predicament.

SEN. MEOTTI: I have no idea what other towns experiences are, but if you take a look at the facts of this case, you will see that the fact that it has happened, the cost involved to the town (inaudible).

21
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

SEN. MEOTTI: (continued)

The bottom line, I think we are making a mockery of the whole process. If you take a look at it, you have to see it to believe it.

REP. SCHMIDLE: My recollection is that it was already passed at least two pieces of legislation dealing with Glastonbury, and maybe even dealing with this individual, I don't know, but you are saying we haven't done the job.

SEN. MEOTTI: I think you will see that my understanding is that some type of protectionist category was discussed. Basically, they were told that there was no statutory grounds on which to base it. I think if you take a look at this case, you'll see you may end up disagreeing, but you'll see that the request is not on the part of people who want to shut the doors to the public process.

SEN. MALONEY: Senator Lovegrove.

SEN. LOVEGROVE: Are you by any chance referring to the same problem that in my first term I heard former Representative Parker talking about?

SEN. MEOTTI: Most likely, yes. This is not a short term problem.

SEN. LOVEGROVE: Then I understand your problem.

SEN. MALONEY: Representative Osler

REP. OSLER: Just very quickly, did most of this harrassment come from a couple of individuals, or is it rather widespread amongst many towns.

SEN. MEOTTI: My experience in local office would say it was from one individual. From one individual with enough resources can look like an army.

SEN. MALONEY: Representative Gill.

22
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

REP. GILL: I just want you to define petition.

SEN. MEOTTI: Petition I think is an application. When I think petition I mean it would have to be an application authorized by the elective officials of the town. In this case, it would be the town council from Glastonbury, and in legal terms it would be an application or request. In other words, you have to not to be able to arbitrarily (inaudible).

REP. GILL: So you mean the majority of any board, or body.

SEN. MEOTTI: That can all be flushed out, but yet I don't think an individual elected official or a panel such as a board of education, or a council should be able to (inaudible). I wouldn't recommend that.

SEN. MALONEY: Thank you Senator. The next speaker on the list is Bernard Blum. Mr. Blum just quickly, are you a public official Sir?

BERNARD BLUM: I am Acting Chairman of the State Board Board of Accountancy.

SEN. MALONEY: Thank you Sir.

BERNARD BLUM: My name is Bernard Blum, and I am appearing in favor of Senate Bill 893. The deliberations and the duties of the State Board are such that they take a lot of time. Oftentimes our regular meeting are such that they take a greater part of the day, and as such we had difficulty in obtaining public members. Public members are mandated by statute, and it is advisable that we do have those public members appearing at the board meetings. As soon as the per diems were taken away before, immediately our two public members resigned. We have been without one public member for over two years.

I therefore suggest that because of the time involved that a small per diem be instituted to

36
jsl GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. PURLMAN: (continued)

the statement of purpose is to ensure that political party caucuses in municipal government are not subject to freedom of information. As I understand the law, that is the case. A caucus is an exception to the open meetings law, and that's defined, for purposes of the FOI Act differently, that is a caucus, members of the same agency who also happen to be members of the same party.

I have copies, and I will give these to your clerk, of very early Freedom of Information Commission Advisory Rule 11, in 1976, in which the Commission stated that political parties are not subject to FOI. So if that is the intent of this bill, I don't think it's necessary.

Most problematic to us at this stage, is the third bill, Proposed Bill 648, an act concerning protection from harassment under the Freedom of Information Act. You've heard Sen. Meotti talk about in very general terms, the problems that the town of Glastonbury's having with one individual, and that individual led to the Freedom of Information Act being amended a number of years ago to provide for penalties under certain circumstances.

I am fully appreciative of the difficulties that the town of Glastonbury are having with this one individual, and in my own personal opinion, they're rather severe. However, the difficulty with a bill like this is how is it going to be used, or how may it be used? One person's harassor is another person's gadfly, and vice versa, and our experience has been that if public agencies can use an excuse to hold up disclosure of information or to prevent it, they will do so more often than the case of totally frivolous and harassing kind of bill.

So the consequences of passage of this bill would be that any time a public agency wants to even delay, say until after a town meeting, disclose copies of information, all they have to do is file a petition with the Commission. The Commission would have to hear the matter. If the agency were to lose

37
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. PURLMAN: (continued)

that petition, then presumably there'd be a right to appeal, and that process could occur, would occur, take up time at the point where the information is most necessary.

Now in the law right now, and this is a result of, to a large extent, as a result of this one case, and I know that there are gadflies, and we've had some experiences with this thing, but I think it may be overboard. Do you want to get rid of the First Amendment because somebody may abuse it on one or two occasions?

First of all, section 1-15, part of the FOI Act, says that a public agency may require pre-payment of any fee required or permitted under the Freedom of Information Act, if the fee is estimated to be \$10 or more, so we're talking about a large request of information. There are cost of copy provisions that in many cases will act as a filter against many people seeking to tie up the agency's hand.

And finally, I think it was in 1983, maybe, 2 or 3, the Freedom of Information Act was amended to allow the Commission, if it finds that a person has taken an appeal to the Commission without reasonable grounds, and frivolously, without reasonable grounds and frivolously, solely for the purpose of harassing the agency, the Commission may impose a civil penalty up to \$1000. This is different from when an agency unreasonably withholds information, the Commission may impose a fine up to \$1000 only if it finds there was no reasonable grounds.

In order to avoid a chilling effect on having people be discouraged from bringing FOI in place, the legislature particularly made it difficult, it has to be without reasonable grounds, frivolously, and solely for the purpose of harassing. Very, very high standards.

For your information, there's been only one case in which the Commission or the hearing officer of the Commission recommended the imposition of this fine

38
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. PURLMAN: (continued)

out of probably over a thousand cases that happened since, and that was involving the case of the gentleman from Glastonbury. Unfortunately, a technical problem, the time period, prevented the Commission from going through to trimming down merit.

So I ask you very, very sincerely, not to eat up the rule because of one exception, no matter how dramatic and wild that one exception can be.

Finally, the town of Glastonbury has petitioned for declaratory ruling from the Commission, whether or not it can withhold access to copies of records if it finds that there's been a harassment, and that petition has been filed with the Commission recently. It is my belief that the Commission will entertain that. I don't know what the result is going to be, but the Commission will address that issue, I believe, within the next several months. Thank you very much.

SEN. MALONEY: Thank you sir. Rep. Schmidle.

REP. SCHMIDLE: Mae Schmidle from the 106th district. Two very brief questions. On Sen. Bill 124, the one that seems to have no charge for anyone who wants to come in and get copies of records. That would be a law from out-of-pocket law to local communities directly, is that correct?

MR. PURLMAN: Yes. There is a provision for waiver of fee in case of public interest or indigency or, interestingly enough, if there is no record. I don't know how you can waive the fee if there is no record to produce. But yes, it would and if some agencies like municipal clerks to secretary of state's corporation division, acting not in a governmental function so much as a proprietary function, in aid of commerce, and they're permitted to charge fees in excess of the FOI fees as a way of reducing taxes, and those statutes might be implicated by this bill as well.

REP. SCHMIDLE: But you have no idea, you have no estimate, no idea of what?

39
jsl GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. PURLMAN: No, but I think you're talking a lot of money, certainly enough to pay for a few FOI attorneys.

REP. SCHMIDLE: Okay, in relation to 5869, which is the one that wanted us to reiterate in some other language I guess the fact that caucuses are not subject to freedom of information, have you had, has anyone ever come to you with complaints dealing with anything like this?

MR. PURLMAN: In my experience, we've gotten lots of questions about it. I don't think we've had cases about it, because we spoke to 1976 and make it clear that political parties, town committees, and other organizations like caucuses would be exempt from FOI. And now we do have the ombudsman program where if someone files a complaint on this, presumably they'd be informed before there was a hearing that there is a very strong Commission precedent to try to get that case settled without a need for a formal hearing.

REP. SCHMIDLE: So you think that's abundantly clear, then.

MR. PURLMAN: I think so. Now again, I'm not quite sure that I understand the purpose of the bill, but as I'm referring to things, I think it's take care of.

REP. SCHMIDLE: Okay. Thank you.

SEN. MALONEY: Mr. Purlman, for the record, Sen. Maloney, further question. Refresh my recollection of the bill. There's a planning commission, the majority, which is an appointed body usually, the majority of the members of which are one political party, would the Freedom of Information Act allow that group to meet as a caucus even though they constituted a majority of an appointed body?

MR. PURLMAN: Regretfully, the answer is yes.

SEN. MALONEY: Thank you, Mr. Purlman. Any other questions? Thank you, sir. Okay, we will now turn to the public portion of the agenda. The first

40
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GOVT. ADMIN. AND ELECTIONS February 27, 1987

SEN. MALONEY: (continued)

speaker on that portion of the agenda is Betty Gallo from Common Cause.

BETTY GALLO: My name is Betty Gallo, and I'm testifying today for Common Cause. I'm speaking in favor of House Joint Resolution 11. I was a coordinator this summer for a group called Citizens to Protect Connecticut's Constitution, a group put together to oppose question 1 on November's ballot. Question 1 called for the convening of a constitutional convention, yet there was no constitutional crisis, no group clamoring for a convention, and no pressing constitutional issue.

Our Constitution requires the Secretary of State to put on the ballot every 20 years the question, shall there be a constitutional convention to amend or revise the constitution of the state. Except for a very rare amendment, all questions on state ballots have passed, in other words, a history being passed, all the questions that go on the ballot.

We put together this group called Citizens to Protect Connecticut's Constitution, with editorial memorandums, we did a public relations campaign, newspaper and radio ads, letters to the editor, we did (inaudible) cards, urging people to vote no on question 1, and in fact, we prevailed and question 1 died on the vote of 379,000 approximately to 207,000. We of course have no way of knowing what would have happened if we had not waged such a campaign. Perhaps people would have voted no. Traditionally, they vote yes on such questions.

Then, if they had voted yes, we would have convened a constitutional convention. The last convention, in 1965, cost about half a million dollars. In 1986 dollars, we figured that would work out to about 2 million dollars for a convention, where no one was pushing for, in absence of any constitutional crisis.

We think that you should pass House Joint Resolution 11, which basically removes the requirement that

55
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. CASA: (continued)

the Committee. My name is Gian-Carl Casa, and I represent the Connecticut Conference of Municipalities, and I'd like to testify on two bills before the Committee today.

CCM supports Proposed Senate Bill 648, which is an act concerning protection from harassment under the Freedom of Information Act. This proposal would allow municipal governments to petition the State FOIC for a determination that an individual's request for copies of public records under the Freedom of Information Act, constitutes harassment and should therefore be denied.

The passage of the Freedom of Information Act was intended to make the workings of government more open. While the ideals behind FOIA are laudable, the execution of this law is often clashed with the practical need for local government to function.

In some municipalities, certain individuals have abused the law to such an extent that it can only be described as harassment of the local government. In these cases, the misuse of the Freedom of Information Act hampers the functioning of government, does a disservice to the community as a whole, and reflects poorly on the FOIA itself, and this was not the original intent of Freedom of Information legislation.

This bill would provide municipalities with a way to seek redress in these extreme cases. It would not allow local officials to arbitrarily refuse to comply with the requirements of the Freedom of Information Act. It would leave the determination as to whether harassment was involved, to the FOI Commission.

It would also assert some balance to the Freedom of Information Act, and make it clear that abuse of the law by anybody will not be tolerated. We urge the Committee to draft and favorably report this bill.

56
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. CASA: (continued)

CCM opposes Proposed Senate Bill 124, which is an act prohibiting public agencies from charging state residents of fees for copies of public record. Currently, cities and towns are allowed to charge a fee of only 25¢ per copy for public record. This bill would make such copies available free of charge. The current 25¢ per copy fee is low. Personnel time and equipment cost which are taken up responding to FOI requests often are much more expensive than the fee charged. Some public documents are quite lengthy, difficult to locate, and providing them can be time-consuming to local staff.

While it is important that public documents remain available to all citizens regardless of income, this bill does not propose a needs test of any type on citizens. Under the proposal, a multimillionaire could request a lengthy document, and the local government would receive no reimbursement whatsoever for the personnel time and other expenses of providing the information.

If the General Assembly wants local documents to be available to all citizens free of charge, without any recruitment of municipal costs, then it should provide state reimbursement to local governments for the cost involved in responding to FOI requests.

We urge the Committee to take no action on Senate Bill 124.

SEN. MALONEY: Thank you, sir. Questions? Rep. Schmidle.

REP. SCHMIDLE: Mae Schmidle from the 106th district. (SB648)
We heard testimony a little earlier that they're having a serious problem in Glastonbury. No one could find another community that was having the problem or that kind of a problem. Do you have any knowledge about any other community besides Glastonbury that are being harassed in this way?

MR. CASA: Well, that is certainly the most extreme case, and there are officials here from Glastonbury who are going to speak to exactly the problem that

57
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. CASA: (continued)

they faced. We've discussed this issue in various forums among our membership, and I can assure the Committee that, although I can't give you specific names of specific municipalities, that our membership either has faced, many of our members have either faced situations which they feel constitute harassment, or are fearful of harassing claims.

Again, this legislation would allow the Freedom of Information Commission to make that determination. It wouldn't allow the local government to make the final determination.

REP. SCHMIDLE: Thank you.

SEN. MALONEY: Further questions? Yes, Rep. Torpey.

REP. TORPEY: When a person can get to copy something (inaudible) copy the page (inaudible) right? SB 124

MR. CASA: Right.

REP. TORPEY: Can you also charge them for the time if it goes beyond (inaudible) file, search it. Can't you charge him for that time?

MR. CASA: No. Somebody could come in (inaudible) public documents from 1950, and local staff, be it a town clerk or assistant town clerk, would have to take the time to go and dig up that document, and that would not be compensated.

REP. TORPEY: No, but that if he identifies what you said, the document (inaudible) the council meetings of June 5, 1950. But if he asks you for the copy of the council meeting (inaudible) it was 1950, or 1951, that we extended (inaudible), and you have to go through a ream of paper to find out exactly when that happened, and maybe it wasn't the type or maybe it was the planning board or something like that, can you charge for that kind of time?

MR. CASA: To be honest, I'm not sure. I don't believe that that is compensable in any way.

58
jsl

GOVT ADMIN. AND ELECTIONS February 27, 1987

REP. TORPEY: Thank you.

SEN. MALONEY: Further questions? Thank you very much, sir.

MR. CASA: Thank you.

SEN. MALONEY: Next is Mr. Richard Borden.

RICHARD BORDEN: Sen. Maloney and ladies and gentlemen of the Committee, thank you very much for giving me this opportunity to testify. We'd like to speak in firm opposition to the strong support of the, Bill 648 that's before you, and we respectfully plead for a bit of relief to come, what we feel is extreme and perpetual harassment.

SEN. MALONEY: Mr. Borden, excuse me. Just briefly, you said "we." Do you represent an organization?

MR. BORDEN: Yes, excuse me. My name is Richard Borden, I'm town manager of Glastonbury. We have several Glastonbury officials here to speak to these bills.

SEN. MALONEY: Thank you, sir.

MR. BORDEN: The next speaker, Richard Johnson, will also speak to this issue and assist me. The bill does not provide any opportunity for denying someone access to records. It's simply, and I read, gives, permits the municipality to deny a request for information, for copies of records for a person who makes repeated requests which constitute harassment, and to authorize the Commission, I emphasize, to authorize the Commission, to issue an order upon a finding of harassment, providing such order shall not apply to requests for inspection of records.

(inaudible) is not asking for any power at all, but simply asking that the Commission can issue a ruling and make the judgement, not the town at all. Additionally, any individual that's brought, even if they were denied the opportunity to be given copies by the Commission, can certainly come in and look at the record.

59
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BORDEN: (continued)

We'd like to state that the town of Glastonbury, its employees and officials, have always supported, graciously supported access to public records and the public's right to know, and we always will. However, we must continue to resist obvious harassment requests, and we're going to demonstrate in a moment how we spent tens of thousands of dollars, probably in excess of a hundred thousand dollars, in recent years, trying to comply with requests, and request that it's sheer harassment.

We had an individual who's made requests for the last 11 or 12 years, and I'd just like to cite you some statistics we put together, just for the last two years, 85 and 86, and just a month ago of 87. He had a total of 114 requests, 114 separate individual requests. The legal fees, just during the past two years, to try to defend these requests and get them released before the Freedom of Information Commission was \$33,448.65. Only the legal fees, not to mention the staff time, hundreds of hours, (inaudible) time, the mailing, the copying and so on. It would be even more disastrous if Bill 124, if it permanently that you couldn't even recover the 25¢ per page.

So we'd like to note our opposition (inaudible) for (SB 648) that bill.

A typical request that comes in is (inaudible) a random computer source of the ran list, and it's typically seven pages of about 250 names, and it will say, give a copy of the building permits to these people. In recent requests, we had to search over 10,000 documents, namely building permits. There only 1100 of them that took out permits. So you may have a list that has two or three hundred names on it, but they haven't taken out building permits. Only about 10% have taken out the permits. We go through this horrendous staff requests, all the staff time, and find out that most didn't even take them. And then one comes in again for assessment price, and the following one for fire marshall's safety record, and so on and so on and so on, year

60

jsl GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BORDEN: (continued)

after year after year, at a cost of tens of the thousands, and several hundred thousand dollars.

We think, and I think any legal person would agree, that that's obvious harassment, only for the purpose to harass the municipality and or its officials. Let me have Mr. Johnson assist me and show you (inaudible), show you an example of some of the types of the things we receive, and I have to apologize, some of the letters have a bit of colorful language in them, and I hope you're not offended by it.

Do you see the one in the middle of the chart, the yellow legal sized letter that is scribbled up, looks like some child sent in, let me just read that to you. It's dated Sept. 27, 1986, and it's to filthy liars and absolute assholes, Borden and Johnson, meaning myself and... (laughter)

Now, we would like to let you know that we're not going to comment on the validity of the remarks. This is from a Dr. C.J. Mazocki, who goes with my check number of 4470, the check for payment of previous copies.

You assholes have not yet replied to my letter dated December 20, 1986, and something's scratched out. Also, you assholes have prepared the daily line for October 1985 but you assholes have not prepared the laws for March, 1985, pursuant to FOI decision 85-105. If you assholes do not send me that one, I should request that you assholes be punished. You assholes do not make it necessary for me to make such a request.

SEN. MALONEY: Sir, excuse me.

MR. BORDEN: This came in in a kind of envelope type of thing that we thought was you know, something some kid did, and we were about to throw it away.

SEN. MALONEY: Sir, excuse me. I think one example of the language is probably adequate.

61
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BORDEN: We hope so.

SEN. MALONEY: We can hopefully delete the expletives.

MR. BORDEN: I thought it would be beneficial to show you at least one sample. There are several additional ones on the chart, and on the other chart. The letters along the top, at least the top left hand side, it's a similar letter, and it carries on in a similar manner, and asks for a copy of some police log, and goes on and says you people liars and a few other expletives, and ends up with happy new year, we hope you have a happy new years, and I get five of these on New Year's Day.

The folded-up airplanes and crayon letters on the bottom are this week's letters. Those are all requests this week. Last week, came in Wednesday and Friday, another half a dozen of them, and some of them have the extensive computer sought list, which requests 2, 3, 400 name printout of various random residents in town and wants their assessment cards, building permit cards, fire marshall's inspection record, and so on. I think that probably makes the point, we just wanted to show you that.

On the other board, we've made for you a summary of the requests. This is just the past two years. The ones on the left, I believe it is, are all the general requests to the building inspector and whatever official happens to be in vogue that particular week, the building inspector or the fire marshall or so on, and each one of those took an average, I believe, of 25 hours of staff time to respond to. This is only two years of requests, that's 85-86, and the first month of 87.

The list on the right hand side of the charts are all requests of the police department, copies of the log, and copies of lawsuits and so on. I think that adequately demonstrates the types of requests we have, the quality of the, you know, the harassing nature of the requests, clearly, I think any reasonable person would look at that and say, that is obvious harassment. There is no purpose to it other than to harass the town and its officials, and

62
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BORDEN: (continued)

the sad part of it is, the taxpayers of Glastonbury are paying tens and tens of thousands of dollars to be subjected to this, and that does not serve the public interest.

Sen. Bill 640 is an excellent bill, and I do respectfully suggest that it should be adopted, to allow the Commission to make a decision on these issues, not the town, but to grant some authority the Commission to try to respond in an intelligent way to these types of requests.

Thank you very much for your time. We have a couple other officials of the town which would like to take (inaudible) of your time to get some follow-up comments. I have copies of these documents which I would like to leave with you if I may.

SEN. MALONEY: Certainly. File those with the clerk.

MR. BORDEN: Thank you very much. If anyone has any questions?

SEN. MALONEY: Yes, I was just going to call for questions. Is there any additional testimony. Please identify yourself, sir.

RICHARD BROWN: Attorney Richard Brown, town attorney for the town of Glastonbury, and perhaps I can anticipate a couple of questions. One has to do with the question that one of the Representatives earlier, had to deal with the fact that in the past, certain legislation was passed with the hopes that perhaps they might cure the problem.

And Mr. Purlman on the Freedom of Information alluded perhaps in part to, relative to that. Specifically, 1-15, where may require to obtain. However, and the questions asked by the gentlemen of that concerning the ability to charge for other than the actual copying, the reason I think historically is (inaudible) at 25¢ and nothing less than that was anticipated, which includes some of the cost, but that you cannot charge more than your 25¢ a page, even though as

63
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BROWN: (continued)

you'll see from this document, (inaudible) that the actual cost of the time spent in manpower, and the time you take away from other town business, is extraordinary, and we have no way of recouping that.

Concerning the fact that one can impose several penalties. In fact, notwithstanding all of those requests, for the hundreds of hundreds of hours and cost to the town, not one penny has been paid by this particular individual. For whatever reason, FOI has seen, has not seen fit to actually impose any such penalties, they came close once, but in fact they dropped it, and for their own reasons, legal reasons.

We would point out, however, that Mr. Borden, who in fact, the town manager has been fined \$20 because, I have to say at my request, my suggestion that as a town council, a town attorney would say, we decided to object, and we went before the FOI we explained why we felt we didn't have to endure this. The FOI felt because we (inaudible), the town in fact, the documents requested are public documents, that the town manager was wrong in denying, notwithstanding the type of language, notwithstanding the numerous requests, and fined the town manager \$20. The fact that it was \$20 versus \$1000 had no particular input to us other in a personal way, because it was quite frankly an insult to the town of Glastonbury, and I think a misuse of the statute, so that the point I'm trying to make is, if we decide to go under the present statutes, the way the town of Glastonbury runs a very severe risk and the humiliation I might add, because this particular person's really rubbing it in, of being held in contempt for failure to supply the document.

This particular bill will avoid that. This particular bill will give us (inaudible) which I'm taking, because I'm desperate at this point, truly is expensive to the town, and quite frankly can be litigated ad nauseum and in the meantime, we are required to continue to respond to those airplanes

64
jsl GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BROWN: (continued)

that are coming on a daily basis. And unfortunately, the town of Glastonbury, while they're not the poorest town in the state, they have limited manpower, and quite frankly, I think the money can better be spent in other areas. Thank you.

SEN. MALONEY: Thank you. Is there any additional testimony before we entertain questions.

MR. BORDEN: Yes, I'd like to introduce Mr. Richard Johnson, assistant manager of the city.

RICHARD JOHNSON: I'd just like to speak briefly to some of the costs that the town has incurred on some of these requests. Earlier, on the board we showed you all the requests that we received over the past two or three years. But pulling out, for example, building inspection reports and building reports, as Mr. Borden spoke to earlier, in order to satisfy the request for, the 13 requests for building inspection reports, building permits we received, it required us to look at almost 10,000 individual cards in our building department. When all was said and done, we provided about 1097 actual pieces of information in response to the request.

Now that required approximately 325 hours of staff time, at a cost of approximately \$3,000. At 25¢ a page, for a little over 1,000 pieces of information, the town will receive \$250 in revenue. That's a difference of about \$2,750 that the taxpayers of the town of Glastonbury have to pay for.

Now that's just one example. To move on to the second field cards, it's similar. He would go through all 114 requests. A very expensive and lengthy in terms of manpower requests that we receive is for copies of the daily log, and that's the police department. Typically, we receive requests for a period 8 or 9 months in length. In order to provide the copy of the Police Dept. daily log, we must make a copy of the log, we are then permitted to expurgate certain information with a black marker, which we do, and then we provide the information.

65
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. JOHNSON: (continued)

Typically, for every 25¢ in copying revenue we receive, we spend \$1.00 to \$1.25 in staff time preparing that. Now each staff time figure I provide you with are only the costs of individuals assigned to the project, whether they be a clerical person, member of the police department staff, what have you. It doesn't include postage, it doesn't include fringe benefits, it doesn't include any administrative time by myself, the town manager, others that are involved in this, which is considerably more money.

To process about 20 routine requests for the period June 1986 through December, we provided 3,052 pages of information. Now this is after we might have gone through 6, 7, 8000 different pieces of paper to find that the list we were provided with, the information we were asked for, was included on 3,052. Copying revenue from that was \$763, staff costs for just the individual assigned to that was \$1,758, which is a difference of \$995.

Right now we have found is that when you're nominally looking at the staff costs and you go through these extensive requests, we're also looking at the loss of productivity of all our officials and staff that's involved in this.

What we have been forced to do because the loss of productivity in various offices, is we've had each staff hiring part-time help, which has been working for us for about two months now, paying \$4.50 an hour, works about 2 to 3 hours every day after high school, and does nothing but research and process these requests. We have a person up five days a week, hasn't had a day off yet, we don't anticipate a day off for quite some time, just catching up with what we've received prior to the 6 that are displayed as airplanes, we received this week.

SEN. MALONEY: Thank you sir. Rep. Lescoe.

REP. LESCOE: For the record, Rep. Lescoe, 49th district.
I came to the conclusion that you can have them

66

jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

REP. LESCOE: (continued)

in the mail, this information seeking, otherwise I believe this person would be waiting quite a long time for 10,000 pieces of document. But just to know a little bit about the regulations, why isn't there, have you explored the avenue of a person coming to the town or reject documents, possibly a rule from the Commission that they have to appear personally to accept or to receive the documents they're seeking. Is there any rule, as I said, I'm not too familiar with these rules and regulations. I mean, 10,000 pieces of document.

MR. BORDEN: Basically, that's part of what the bill proposes to do, that the individual can come in at any time, and our doors are always open and someone can come in and search 10,000 documents, to see if some random number of people took building permits, and we have no qualms with that at all, that's part of the provision of Bill 648, which we strongly support.

REP. LESCOE: And as you previously mentioned, that you refused to give this individual documents just once or you failed to get them out on time, and you were actually fined by the FOI.

MR. BORDEN: Yes. Some of the requests for information that's not disclosable under FOI guidelines, it's just, a few documents are not disclosable under FOI, pending lawsuits and health records and personnel records, among some other items, and we have challenged before FOI to determine if we must respond to some of these very broad and vague requests. One request was for any piece of paper, no matter how large or small, that has a number written on it. I must have at least a million pieces of paper that fit that description. How on earth am I to respond to that? We think it's impossible. We've challenged those before FOI and we were found to be ruled against on one issue. One year, there were 18 cases that were filed against us before FOI, I believe, 14 of the 18 were withdrawn before they were decided by FOI, by the complainant. Of course, in the meantime, we've

67
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BORDEN: (continued)

spent tens of thousands of dollars in preparing a defense to go before FOI. It's really bizarre, and we need relief.

REP. LESCOE: Thank you.

SEN. MALONEY: Okay, Rep. Courtney, then Rep. Rell.

REP. COURTNEY: I'd like to ask Attorney Brown about the lawsuit that you have. It seems to me...

: I can't hear you, sir.

REP. COURTNEY: I wanted to ask Attorney Brown about the lawsuit that he has pending. It seems to me that in terms of getting the real relief here, which is just to shut him off, that this bill doesn't necessarily accomplish that end, because I could just see where as each frivolous request came in, that you would seek petition in response to each one, and would just create another layer of work and paperwork, and do you envision the FOI actually ordering a complete cessation of response by the town to an individual?

MR. BROWN: (inaudible)

REP. COURTNEY: Would they do it just on a case by case basis?

SEN. MALONEY: Excuse me, sir. As you speak, please identify yourself so that proper record may be made.

MR. BROWN: Attorney Richard Brown, town attorney. This question, and quite frankly, having talked with various officials of the Freedom of Information Commission, obviously they recognize the problem, and it's not that they're being malicious to us they're saying having to recognize the person as a person, (inaudible), and we can't do that. To answer your question, it is our hope that should this bill become law, it is our intention to seek a ruling from them in terms of guidelines. We have no objection to any person, including this particular

68
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BROWN: (continued)

person, in good faith requesting a particular document, and quite frankly, we don't want to bother this person, should he in good faith ask for a particular document. We think we can establish rather easily a certain behavioral pattern that warrants control, and it is our anticipation that the Freedom of Information Commission, being an intelligent body, and with the (inaudible) experience, counsel such as Mr. Purlman, could structure guidelines and let everyone know what those guidelines could be concerning harassment and the fact that we would not be obligated, we would not be subject to contempt, should we behave within those particular guidelines, and we anticipate, to answer your question, that we'll take the first request that he made that we consider to be harassment, and from that point, we will go before the Commission and ask for a ruling and hopefully get those guidelines so that in the future, we would have an automatic way of dealing with them without having to constantly relitigate it and relitigate it and relitigate it.

REP. COURTNEY: In the case that's in court right now, and you're seeking relief to just prohibit him from making requests.

MR. BROWN: Yes, the difference however is that I'm seeking, again, Attorney Richard Brown, town attorney, we are seeking a declaratory judgement, and by that I mean a ruling from the Freedom of Information commission, as to whether or not the requests that we're challenging, which are three of them, each of which contain a request for 250 documents, each of which require going through approximately 10,000 documents to arrive at an accurate answer for this gentleman. We are requesting an opinion by the Freedom of Information Commission as to whether or not this constitutes harassment, and if so, whether or not we would be contrary to law if we chose not to give him these documents.

The problem is, because of the history of the FOI

69
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BROWN: (continued)

in punishing the town of Glastonbury, we feel, and we discussed this the other day, that we have no choice and while that is pending, that we must continue to respond because if we fail to respond to all of these other requests, the town of Glastonbury could be held in contempt if my declaratory judgment petition is denied for whatever reason, and there are, as you know, statutory time deadlines by which we have to respond, failure to do so automatically constitutes a denial, and these are public documents, and let's point out, I'm not challenging the fact that these are public documents, we're not challenging, in fact we're a public agency, otherwise obligated to provide these documents, so for those reasons.

That's what separates a declaratory judgment, which is perhaps prospective in nature from this particular bill, which would permit us not to have to respond, not to have to spend the manpower while we're pursuing a ruling.

And I want to point out because Mr. Purlman made a point. It's the perfect point, but while in this particular case we may (inaudible), what about other public agencies? Maybe they'll try to use this as a tool to prevent disclosure.

First of all, I'd point out that this body should, and from a public policy point of view, assume that all public agencies will act in accordance with law, not to say that some might not, but I think you cannot assume the opposite.

Secondly, assuming for the sake of discussion if a public agency fails to act in good faith, which is really what Mr. Purlman was talking about, and a public agency decides to attempt to use this particular bill and this particular law as a means of preventing or delaying the disclosure. I submit that section 1-21iv, which is the penalty section, which concerns itself, as a matter fact the one they used on Mr. Borden, so we know they can use it, would control that sort of conduct, because it

70
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BROWN: (continued)

clearly states that if there's a finding, a denial of a right was there not reasonable (inaudible), they tell us, it seems to me the town without good faith, uses, attempts to use this particular law as a means of avoiding their public duty, the clarity of the freedom of information has not hesitated in the past, and I'm sure will hesitate in the future to penalize that town, so that that particular fear of Mr. Purlman's is already been dealt with by this legislature. Thank you.

SEN. MALONEY: Rep. Rell.

REP. RELL: Thank you. For the record, Jodi Rell from the 107th. Two questions. One, first to Mr. Johnson. How much money did the individual spend on copying fees, I'm not sure, let's say that in the last two years. You might have said that but I didn't write it down.

MR. JOHNSON: Well, the figure I gave was about \$763 for 6 months from June 86 to December 86.

REP. RELL: And the other question. I apologize for having missed testimony earlier, we were having another meeting. What is the feeling of the FOI Commission as far as backing you up if this bill should be passed. I mean, the way I read it, I'm not really sure that they can actually help you except in the petition form, when you send it to them, again, I guess I'm asking a redundant question, but what are your feelings as far as getting support from the FOI Commission?

MR. BORDEN: I think the Commission will be able to respond well to the provisions of the bill. We would petition them and show some of the information, the voluminous requests and ask them to rule on whether this is nothing but a case of harassment, or something we do not have to comply with, and I think the Commission could reasonably look at that and make an intelligent judgement, and exempt us from having to comply.

71
jsl

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BORDEN: (continued)

At the same time, of course, the doors are still open. Someone could come in and help yourself and look. I think the Commission soon could react favorably.

MR. BROWN: Attorney Richard Brown, town attorney. Rep. Rell, to answer your question, I feel that the Freedom of Information and, they now see it as somewhat tardy, because as the law now stands, I'm not even so sure that my theory of harassment as a legitimate reason not to answer these responses is valid under present law, because the law is somewhat vague in that area, and in the past, having gone to numerous hearings before the Freedom of Information Commission, I constantly get back, well this is a public document, and you are a public agency, and you know, as administrators of the law, they don't have that discretion. If they make those findings in our opinion, that is if it is a (inaudible). But what the penalty section addresses to under the present law, if for example, a petitioner, that is a person, a citizen, writes and he wants the names of some document that's clearly not a public record, I can't think of one at this particular moment, and he goes before the Commission and is denied, and two weeks later, he files another one and he files another one. It is a case where that person may be penalized financially, because he's putting everyone through through the expense of something he knows is not a public document.

Never, and I think Mr. Purlman's here and I'm sure he can answer any questions, never has anyone ever been penalized by the Freedom of Information Commission for request of a public document, and that's the problem that the Freedom of Information Commission has now, so to answer your question, in my opinion, this would be a tool, quite frankly, I'm surprised at Mr. Purlman's objections to this, I think he's doing it because he has a fear of abuse of a particular statute more than he is of the concept itself.

Right now, the Freedom of Information Commission's hands are tied, It's true. They have their own

72
md

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. BROWN: (continued)

personal reasons, but I also know, and answer to an earlier question, that their are ugly people, thank God there are not too many of them. And we have to reasonably assume that in the future that maybe some other people that perhaps are not mentally stable. Who knows, but for their own reasons. Besides the harass of particular public officials. And this is a way of doing it. The cost is 22 cents. It costs the town thousands of dollars. I think it would be a tool that would help the information not hurt. Thank you.

REP. RELL: Thank you.

SEN. MALONEY: Are there any further questions from the Committee? Yes, Rep. Torpey.

REP. TORPEY: I would like to start on the assumption that all people are sane and logical and fairly reasonable, except myself, of course. Why do you think this person is doing what you feel he is doing to you? What did you do to him before?

MR. BROWN: I made a mistake as the town attorney. He has in 15 years of practice, I've never been, had any complaints filed against me from the Bar Association. And yet a month of representing the Town of Glastonbury, now I have to defend myself for the first time ever against a claim of acting unethical. Because of my honest advice to the town. The town manager, I', surprised, quite frankly, that he's still with the Town of Glastonbury, because (inaudible) I would find out Representative, that this person is now under arrest, because of a complaint filed by the Town of (inaudible) because in addition to everything else we talked about, he has (inaudible) a serious instrument through the mail of a threatening nature to the various members of the Town Council. Through the town manager (inaudible) so we are not dealing in our opinion with someone that might behave as you or I. (inaudible). I don't want to get into any name calling or whatever, so I don't know what's behind this (inaudible)

73
md

GOVT. ADMIN. AND ELECTIONS. February 27, 1987

REP. TORPEY: But you think (inaudible)

MR. BROWN: Yes, and I might add, if you met him and you were there and you didn't know anything about him. This person comes in, he's got a three piece suit on. I thought he was a lawyer when I first went in the first time I met him. He presents two face. And when he reported the information, he did everything possible to keep this type of language that Senator Maloney asked us to curtail, from going before the Commission. Because he doesn't want them to know what kind of language he uses. He tried to present one face to the Freedom Information Commission because he wants something from them, at the same time he's behaving in this particular fashion. And quite frankly we have no idea, I mean it isn't just the town manager, its other people within the town. And unfortunatly he does have a lot of money. He drives a better car than most of them and he has the time. And he's not a stupid person. He is an intelligent individual.

REP. TORPEY: Obviously.

MR. BROWN: And he had to work off initially the Connecticut General Statutes in such a fashion as to regions of justice.

REP. TORPEY: You presented this information to the Freedom Information Commission? In other words have you presented this case (inaudible.)

MR. BROWN: We are in the process of doing that right now with the Declaratory Judges. We have presented (inaudible)

REP. TORPEY: So they are aware of all this type thing, the pen letters the number of cases.

MR. BROWN: Assuming they weren't drinking at the time that I was discussing it. That's correct. We have been there so many times that's its impossible for them not to know. And they have not ruled yet on the Declaratory Judges. But again I must point out that while that clock is ticking

74
md

GOVT. ADMIN AND ELECTIONS February 27, 1987

MR. BROWN: (continued)

we have 6 more airplanes in the (inaudible) we have to bond to those juries requests. The Town of (inaudible) is being modest. We also get these balls that are sort of like spit balls stapled in the middle and while we are finding it somewhat humorous, I tell you that if you do not respond to this within four calendar business days, he files a complaint with the Freedom of Information not only does he take up our time, but these people Mr. Filman and his staff have to deal with this person and of course use whatever limited time they have.

REP. TORPEY: How long have they known this?

MR. BROWN: Well I've only been town attorney for 2 years. I assume about 3 years at least.

MR. BORDEN: This has been going on, I've had this individual for going on 8 years. And my predecesors had him for four years. So this is about 12 years of this. It has been most intense the last few years. But it goes back.

REP. TORPEY: I mean how long has the Freedom Information been aware of this type thing. That is what I'm driving at. Not how long it has been going on. How long did they know?

MR. BORDEN: I would say probably 5 or 6 years as a minimum.

REP. TORPEY: Well it seems to me (inaudible) except for that 3 piece suit I think you lost it again. It would seem to me that we ought to get a hold of the Freedom Information and find out about this. If what they say is true, and I say if because you like to hear the inside and also the Freedom Information side, but if what you say is true, then by gosh it seems to me the Freedom Information should be coming to us with a recommendation of how to straighten out a situation like this. I don't think it ought to be, this is ridiculous for people acting this way and government standing

75
md

GOVT. AND ADMIN. ELECTIONS February 27, 1987

REP TORPEY: (continued)

by and saying its a fact. Now I know you have to be careful of what you shut off. But it seems to me this is very evident of what we should do with it. Thank you.

SEN MALONEY: Thank you Representative, is there additional testimony? Is there additional questions. I have a question I'll reserve it for a moment. Yes sir.

MR. BORDEN: I'd like to introduce three other town officials that have been waiting to speak, first sitting on my left Mr. John Ryan who is the Majority Leader of the Town Council. Followed by Mr. Walter Hemlock on the left who is a long time member of the Board of Finance and sitting here behind me Steven Hinchey who is the Minority Leader of the Town Council. And I think they can give you an objective by partisan view and comments to the pertinence.

SEN MALONEY: I would only request, this matter has taken a considerable amount of time of the Committee. There are people here on other issues. If you can be very brief, I would appreciate it.

JOHN RYAN: John Ryan (inaudible) of the Town Council. I think that we have spent a lot of time on one individual and certainly this is the case and point that you have heard a lot of evidence on and I think the town is in the position of coming the research assistance to the detriment of the taxpayers, because if we take the 2700 dollars that Mr. Johnson has talked about. That's one taxpayer paying his taxes for a year to support this effort. And while all of us are very jealous of the freedoms that are granted on the Freedom of Information Act and want to protect that. We also have a fiscal responsibility. Senator Meotti's Bill would allow access so we are not denying anybody prior to a public meeting access to those records. But what we are saying that the towns cannot financially continue to be a research assistant to someone. Money is not a detriment to this person. So paying up front, sure he will pay up

76
md

GOVT. AND ADMIN. ELECTIONS February 27, 1987

JOHN RYAN: (continued)

front, that's not the way the remedy, we need a better remedy. The last point I make is while this is one individual, other people may go to school on this and this tactic could be duplicated in other parts of the State. And there is nothing to prevent someone who doesn't like a zoning issue, who doesn't like the way the trash is picked up, from going on a one person crusade. That could make frivolous and repeated attempts to get information that could tie a town up in knots. You should think about that. There is limited staff in any town, and an individual under the law the way its written today, has the freedom to file requests everyday, for massive amounts of research and we have no ability except to comply or to go to the Declaratory Judgement Group. I think that we focus on one individual but think about it as an example of what could possibly happen.

SEN MALONEY: Thank you.

WALTER HEMLOCK: I am Walter Hemlock. I'm a member of the Board of Finance in the Town of Glastonbury. I would just like to say that I support the proposed bill that Senator Meotti has offered, because I know that in certain cases where its clear to me that the harassing situation in the town has had to extend funds and devote manpower to issues that I don't believe were necessary and the rest of the town had to pay for. I believe that by having the Commission in a position to allow to make that judgement of what is harassment and what is not that we can avoid this situation in our town. If they judge that is a harassing situation and can avoid that situation developing elsewhere.

SEN MALONEY: Rep. Torpey has an additional question.

REP TORPEY: As a result of all this information that this man has been after. Has he ever done anything with it, for example complained about violations of your zoning or favortism in assessments or suggested ordinances or gone to the Council with any of these.

77
md

GOVT. AND ADMIN. ELECTIONS February 27, 1987

WALTER HEMLOCK: No, basically we never see the person. Most of us wouldn't see him if he walked into the room now. He's never come to a public meeting. Most of us have never even seen him or spoken to him. We don't know of anything that he does with the information except to spiro him on to ask for more information.

STEVEN HINCHEY: Ladies and Gentlemen I am Steven Hinchey I'm the Minority Leader of the Town Council. I do apologize that we had to bring this matter and take up your time and the time of other citizens. But it is a serious enough matter that it deserves your consideration. To tie up our resources, to tie up the resources of Freedom Information, I think its kind of ludicrous. Not only that, think of the landfill space we can save with the amount of paper we can recylce for other matters. It sounds a little silly, but we put, I think in figures, more calculations, 3,000 pages together to solve this man's alleged problem and to our knowledge he has not used that information. I know my property and my families property has appeared on some of his lists. To a certain extent I feel my privacy has been invaded, because he is not using that information for any particular purpose. Except for harassment. If you can't give us relief by harassment type cause, then we should at least get relief by being able to hire somebody to take care of his responses and not tie up taxpayers money that can be used elsewhere. Thank you.

SEN MALONEY: Thank you. Additional questions, Rep. Rell.

REP. REL: I just have one question, as I am rereading the bill again. What happens, lets say I'm this individual, God forbid, that I am this individual, and we pass this bill and now the Freedom of Information Commission has given permission to the town to deny a request for this. What recourse would I have to that Commission? I'm not sure, does the Commission fall under the, would the Legislature then have to act to the Commission. I'm not really sure.

78
md

GOVT. AND ADMIN. ELECTIONS February 27, 1987

- MR. BROWN: Any decisions by any public agency which are challenged (inaudible) takes care of that. And that decision is used, for example, at his discretion to be challenge by the Superior Court (inaudible)
- REP. RELL: Then we might say the if the shoe could be on the foot of the Commission they could end up spending a lot time in court having to defend their actions.
- MR. BROWN: Well somebody is going to have to spend sometime somewhere (inaudible). The point is the town has been doing it for all these years and obviously that hasn't worked. Quite frankly the burden ought to be on the decision of, if that is the decision of the Freedom of Information Committee and not upon the town (inaudible) constantly apeal, apeal, apeal decisions.
- REP. RELL: Thank you very much.
- SEN MALONEY: Thank you Counselor. Rep. Courtney.
- REP. COURTNEY: I just have one last question, over in Federal Court and that is where I'm going they have given me a number there's a fellow that has kept filing Federal Law Suits over and over again. Finally Judge Cabrenas, probably on his own motion entered an order prohibiting this guy from filing lawsuits. And what I don't understand is, your asking us to revise an entire Statute for one incident. Maybe that's appropriate, but I don't see why the town hasn't elected to try and sneek in a court ordered remedy like that, which would seem to be the real answer.
- MR. BROWN: You have to understand that the town (inaudible) the town manager I pointed this out earlier, and that is the town really does make a good effort to try and respond. Even with people that are somewhat obsessed or don't have the stability. We try, the only way by the way that we can do this is if the Declaratory Judgement denies a request. We tried that and as we pointed out earlier we got penalized so we are sort of

79
md

GOVT. AND ADMIN. ELECTIONS February 27, 1987

MR. BROWN: (continued)

gun shy. But the point is the reason we are evolving things like this is their ought to be some judgement and we are Representative in all intense purposes we are trying to do just that. And quite frankly the idea came (inaudible)

SEN. MALONEY: All right gentlemen (inaudible) testimony Mr. Purlman testified much earlier in the hearing. Without prejudice as to whether or not you would like to or not Mr. Purlman, the Chair would recognize you if you want to offer any additional testimony.

MR. PURLMAN: I would very much like to, but I feel constrained that people are waiting here and I would be more than happy to wait until the end of the public session to do so.

SEN. MALONEY: Your very considerate Mr. Purlman. Thank you. No additional questions from the Committee, Thank you very much. All right, now I believe that was Mr. Borden, and Mr. Johnson and Mr. Blum has all ready testified he is on this list as well. I believe we come to, I can't read the first name, but Mr. Beecher, from the State Grange. Mr Beecher, yes. Yes, Mr. Beecher please.

MR. BEECHER: Mr. Chairman and members of the Committee. My name is Kingley Beecher. I am representing the Association of Connecticut Agriculture Affairs the State of Connecticut. And I am speaking in favor of Bill No. 964, which is the appropriations for the Agricultural Fairs in the State. The request for 31,000, which I believe is what is presently in the budget will bring that to 75,000. This is a request that we have been asking for for years. And I finally grasp that this is happening I hope that you people will approve. I'd like to just briefly, it won't take long, mention 2 or 3 facts about the fairs that you should know and don't all ready know. We estimate that 10,000 people, individuals across the State who are involved in promoting and planning these fairs. Small fairs may have an attendance of 100, the larger fairs can have up to 100,000. There's 90 nature fairs. These are the live fairs with

123

jnw

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. GADBOIS: (continued)

Cass. #9

as well as Groton. It is not just a Groton issue. It is a state-wide issue. There are a lot of state properties and a lot of state properties could be sold this way and I don't think it's right.

Thank you very much.

SEN. MALONEY: Thank you very much. Are there questions from the committee? Thank you, sir.

Next, Dr. Walter Doolittle.

DR. WALTER DOOLITTLE: Senators and Representatives of the Committee, I'm Dr. Walter P. Doolittle, a citizen of Preston, Connecticut, and I would like to ask you to oppose Bill 648, a bill upon harassment under the Freedom of Information Act.

On two occasions, I have been accused of harassment. Once by the Town of Preston, who had refused to provide copies of the town records relating to the maintenance of Doolittle Road.

The Town Attorney asked that I be charged with harassment and fined. Fortunately for me, the Freedom of Information Commission ruled against the town and ordered that I be given the records within two weeks or that they give me the records in any case and pay a \$500 dollar fine. So I did receive the records and they included a copy of the contract between the town and the state for the maintenance of that road, along with the records of payment for all work that had never been done. This evidence was used in superior court to obtain a court order directing the Town of Preston to fulfill their contract at their own expense.

As of July '86, the road has been repaired.

The second occasion relates to my requesting a copy of my bill of sale for Sales and Use Tax from the Department of Revenue Services. Since

122
jnw

GOVT. ADMIN. AND ELECTIONS February 27, 1987

DR. DOOLITTLE: (continued)

1981, no bill has ever been established. And despite repeated requests by me through the Freedom of Information, I have never been given a bill which I might appeal in district court.

Commissioner Barbado's response to my most recent request has been that I was harrassing and intimidating him and that he would refuse to respond to my request on that basis.

This is despite the fact that Mr. Robert Wilcox, of his department, signed a certified tax warrant stating that the bill was attested and true copy. And the state law provides that that bill shall be - a copy thereof shall be attached thereto.

When I asked him for a copy of this bill, he was unable to provide the copy and stated over the phone to me that he had never seen any bill.

These are felonious acts by state employees and a formal complaint has been filed with the State Police and with the Inspector General's office asking for fines and imprisonment of state employees for a combined total of over 15 years.

This may seem like harrassment to the government officials involved, but to me it is essential that I carefully document every act and be absolutely accurate and be able to present a copy of all pertinent documents when the charges are so serious.

To the department - a governmental agency - which is trying to cover up their felonious acts, they may consider it harrassment. But I, on the other end, call it persistence. In the case of the Town of Preston, it took me 10 years to get the information out of the Town Hall. And in the case of the Tax Department, it has been an ongoing battle since 1981 and I have yet to see a tax bill. The latest compromise was that if I would sign a blank power of attorney, they would establish a token bill provided I would do it in

Cass. #9

121
jnw

GOVT. ADMIN. AND ELECTIONS February 27, 1987

DR. DOOLITTLE: (continued)

Cass. #9
advance. Well, the law doesn't provide for this and I refuse to do it. I will pay any just bill that's established, but I will not sign a blank power of attorney for a tax bill.

Therefore, I ask that you oppose this bill for the benefit of every citizen who needs it. Please don't throw out our rights to protect the Town of Glastonbury from one person who perhaps is totally out of order. But, in my case, it has been desperately needed - it has been greatly appreciated and I would like to have this right until I can get enough information to pursue this case completely to its end point.

Thank you.

SEN. MALONEY: Thank you, Doctor. Questions from members of the committee? Thank you very much, sir. Next, Mr. James Malchuck.

JAMES MAKUCH: Thank you. My name is James Makuch. At the time of the Branford House project as it was being developed, I was the administrative representative of the University of Connecticut Board of Trustees. And I am here to speak - here technically to speak against Proposed Bill 145, but I'm here mostly to request this committee take action which will result in saving Branford House.

I want to stress before I begin that I am now self-employed as an accountant. So my remarks are my own and in no way reflect the position of the University of Connecticut.

First of all, I think the impression has been given that the proposal which came out of the 1985 legislation was somehow thrown together or perhaps not thoroughly thought out. I know your time is valuable here, but I want to just very quickly re-iterate that this proposal was developed through an advisory council consisting not only of legislators but of the local mayors, of heads of state agencies, commissioners, and prominent people throughout the

168
hhm

GOVT. ADMIN. AND ELECTIONS February 27, 1987

VERA ZIMA: My name is Vera Zima, I am here to speak out against Bill No. 648, on protection from harrassment from the Freedom of Information Act.

The word harrass encompasses a variety of meanings and could be utilized to block a person who sincerely believes in our system of government is persistent enough to pursue all endeavors in order to seek truth, stepping on many toes in the process. This Bill is a form of sensorship, this Bill is a form of reverse harrassment, giving even more power to government officials to block efforts for honest government.

I also believe its a violation of the first amendment to the constitution which is the right to redress grievances. Having spent many hours before the Freedom of Information Commission, requesting rights and access to information granted to the general public by state statutuue, and refused by those in power, a law such as this dwells only in a communist country.

Harrassment to a public figure one or permission in government is a state of mind. This Bill could successfully block any attempt to expose corruption, an abuse that should be made public. Persistence and dedication in search of justice and truth should never be compromised, and that is exactly what you would be doing should this Bill come out of Committee and up for a vote.

Is this America with a "ca" or a America with a "ka". Are you representing the best interest of the people of Connecticut, or are you encouraging corruption and even more injustice with such a Bill? Remember it is much easier to prevent abuse than correct it. Please vote against Bill 648.

Now, I would like to comment, I heard speakers previously mentioned an anonymous man from Glastonbury as the basis of their objection. Personally I am totally against any use of anonymity, I doubt the truth of any statement, if they felt so concerned about this individual they should have given his name, or given him a chance to speak up. He probably

169
hbm

GOVET. ADMIN, AND ELECTIONS February 27, 1987

VERA ZIMA: (continued)

didn't know about this hearing, I found out about it accidentally. I have a legitimate gripe, I have strived, I am looking at my letter, and thinking about the statements that were made about that poor man who isn't here to defend himself, because if you look at this, it looks just like what they were talking about, it started out like just one plain letter but as I listed I made my comments you would have to turn it in all directions, I am sorry about that, but that's the way it is. I have decided to give you reason not reason but proof of exactly what we are concerned about.

There was a triple homicide in Wallingford, Connecticut, which our city officials have called a murder suicide. It took them four months to come with some "cockamini" explanation for these three deaths. The claimed that the seven month pregnant woman, take a hand gun out of a safe, went upstairs shot her seven year old daughter in bed, put the gun back in the safe, locked it up, took a shot gun sprinkled gunpowder all over the cell floor all the way up the stairs, lit it ran over to a sewing machine, sat down on it position the gun, shot gun and shot herself, if you can believe that, I don't know what else you could believe in. What I am presenting to you and which you are very I have many contacts by the way, many contacts, and I am really at almost the end of the line.

What I have here is a ballistics report of the shot gun which was used to kill Connie Zima. I have an autopsy report of Connie Zima's wound, a comparison of them difinitely proved that she could not have committed suicide and that this was a murder. I'll give you a brief rundown very briefly. The size of the entry wound if it shot at close range would be one inch, hers was one and a half inch comparable with a distance of five feet. On close contact which would be like in a suicide you would have no (inaudible) separation, she had a (inaudible) separation greater than that of a gun shot at five feet, so she was obviously shot a distance beyond

170
hbm

GOVT. ADMIN. AND ELECTIONS February 27, 1987

VERA ZIMA: (continued)

I can get any newspaper to print this, the State Legislature have had many requests from newspapers read the autopsy report, whatever newspaper we have, I have presented them free of charge at my own expense and by certified mail copies of every autopsy report I have to stop the lies that they are printing, and I have been accused by the Freedom of Information Commission of carrying a vendetta because I have been persistent in my attempts to get at the truth. I have time than other members of my family which is why I am usually the one that attends these sessions. What we are concerned with is not a vendetta, in the first place three innocent people were killed, if anyone saw that place, they would know that more than one person was involved in it.

There was a bullet hole in the door, there were bullets all over the place. I took some material that I had given Connie that next to the sewing machine, ran it through my washing cycle, and found a 22 unshot bullet in my washing machine. How it got there I don't know. The police says there was no sign of breaking and entering, but there was a broken window panel near the kitchen door, by the way both doors were open when the the people came they were unlocked, why they were wide open is debatable. There was a panel broken by the door where the lock was, and that panel was removed by the Wallingford Police Department, it was fingerprinted, and left on the patio. We tried to find out whose fingerprints they are, we can't get the report.

What we are concerned with basically here is, I've been told, by the way there is a charge of sexual assault on this seven year old girl, of course if you come out with a suicide you have to have a reason, so create one, so a sexual assault was created in this situation. The only mention of a sexual assault is on a affidavit signed by the police, two affidavits signed by members of the Wallingford Police Department. They made a statement that sexual assault was mentioned on the autopsy report, there is no

171
hbm

GOVT., ADMIN. AND ELECTIONS February 27, 1987

VERA ZIMA: (continued)

mention of a sexual report on the autopsy report at all. In fact, we have a medical report which everyone including the newspapers seem to ignore which is a medical report of Tracy Zima, age seven, by a gynecologist at the Hartford Hospital taken at 3/28.86, the day the tragedy occurred.

This medical examination was requested by the Wallingford Police Department, it consisted of an internal and external examination of the seven year old girl. The Wallingford Police Department told Hartford Hospital officials, medical people, that the mother had been raped, she was not raped. But they did the examination based on the testimony of the police, because they did not offer any evidence, they were just statements by the police. So this internal and external examination was completed. I have the report and there is no sign of sexual abuse at all.

The police had to get this information, and yet they allow this lie to be continued. its bad enough to go through this horrible tragedy. We have gone through eleven months of hell, trying to get information, being blocked by God knows how many people. I have completely lost faith in government and our police, and I tell you one thing, I am more afraid of the police than I am of a criminal, and that's pretty frightening. But if you have gone through what we have gone through, trying to find out the truth in this matter, you will feel the same way, I am sure.

I am giving to you, everyone says these are my facts, I did not do the ballistic report, I did not do the physical examination on Tracy Zima, I did not do the autopsy. These are bonafide, certified reports which everyone is ignoring, and this was a triple murder.

The baby, one of the pellets hit Connie, my daughter-in-law in the womb, she was seven months

172
hbm

GOVT. ADMIN. AND ELECTIONS February 27, 1987

VERA ZIMA: (continued)

pregnant. On the death certificate, it states that it was a maternal death, but that baby, according to the autopsy report, the baby was out of the womb. It was not in the womb when Connie was killed. The autopsy report states that the baby had two skull fractures, but it doesn't say how they occurred. There were bruises on Connie's forehead which normally you would think when you fall down, but when you're shot with a shotgun you will fall backwards.

Now, there are so many questions. All we started out with we saw the lies in the paper we couldn't do anything about it so we started out to search for the truth. We figured the reports would let us know what the truth was.

Now, we have been denied access to this, I have been threatened with arrest several times including Mr. Pearlman, simply for following your own rules and regulations and statutes guiding their F.O.I Commission,

If you doubt this, I challenge you to listen to the tapes of all the proceedings involved. I will admit I can be a little outspoken, but basically it's this. When you have proof of something, when you are told, given documents that show you the right way to do something, and then you are consistently blocked and stopped from presenting these documents, and this information when you bare your soul before all these people, you let them have every bit of information you are able to find, and they use it to stab you in the back, and threaten you with arrest. Deny you due process, not admitting your documents, and it took many hours of typing and research, not allowing those documents to be presented as evidence. The time I was threatened with arrest was the time the Attorney General (interruption).

173
hbm

GOVT. ADMIN. AND ELECTIONS February 27, 1987

SEN. MALONEY: Mrs. Zima, the matter before us is the Bill in regard to the Freedom of Information Act. I share what you are saying, you have first of all a tremendous family tragedy, and you have beyond that you have the conviction that the public record of that tragedy is grossly inaccurately, I understand that.

VERA ZIMA: I'd be willing to accept anyone who would put in writing, tell me I'm crazy, tell me I'm wrong, put it in writing, but the thing is I did not do these reports.

SEN. MALONEY: I understand that, that's not the point I'm getting at. The point I'm getting at is that regretfully, all we can do here this evening is take testimony on that Bill. If you have not I assume you have explored avenues (interruption).

VERA ZIMA: Could I briefly tell you what I have done, so I can see how far I have gone. I have think twice I was told these are serious charges I am making. I have charged Dr. Carver who conducted the autopsy with falsification of a death certificate. I have charged the Judge, Judge Petilla who signed the affidavit without proof which is contrary to law as far as I have been able to determine. I have notarized and signed these statements and submitted that to the Judiciary Review Commission to be considered. I have gone to the Wallingford Town Council and accused the Wallingford Police Department of purgury on these documents.

I have writtent letters to the editors since they keep printing the same lies about a false sexual assault on this young girl, repeating the same lies despite having the evidence right in their hands. I have given Bristol press copies of every letter I have written to state officials and document it. The thing is this if you pass this Bill, people like me I don't have a vendetta I am looking for the truth, but is going to block every means. I have been threatened with arrest, I have

174
hbm

GOVT. ADMIN. AND ELECTIONS February 27, 1987

VERA ZIMA: (continued)

been escorted off the grounds of the State Capitol last week when I found out about the Appropriations Committee, and I came for a report after seeing an article in the paper, and I wanted to see if the Inspector General had included my request for an investigation in there. I was escorted off the grounds, I was denied an opportunity to come in see Mr. (inaudible) myself. They sent me to the this is the State Police, he referred me to the newspaper, the Manchester Journal Inquirer who had written the article and me to get the copy from them. I should be able to get the copy here. This is an abuse and if you ever sign this thing into law, I know I would be arrested in a second. I am not harrassing I am looking for truth, but this harrassment, you look up a definition of harrassment.

I have put my life on the line, our home, we only have a home, we don't have that much money. They said this other man have a lot of moeny, but I'll tell you one thing, I don't care, they said that he uses all his time to harrass people in the town, but this is not pleasure trup, Sir, to go to the library and then when you find a law, you find out it has been taken away, wiped out and you got to look for the next one, and this one scares the hell out of me, I can tell you in plain English, it scares me. Because you might look at this red flag out there (inaudible).

SEN. MALONEY: Mrs. Zima you have been very kind, we appreciate your testimony.

VERA ZIMA: I am going to turn all this information to you everybody has been rejecting them. My letter, the medical report of Tracy Zima, stating that there was no sexual assault. I've got the ballistic report, the autoposy report with the wounds, and letter showing that even my right to the free press they wont print that. Thank you very much.

175
hnm

GOVT. ADMIN. AND ELECTIONS February 27, 1987

SEN. MALONEY: Thank you very much, I appreciate your testimony. Are there any questions, thank you.

VERA ZIMA: I appreciate your help, if you can direct this to anybody I sure would appreciate it. Thank you very much.

SEN. MALONEY: Thank you m'am. The next speaker on the list is Russell Stecker, is Mr. Stecker still here. Mr. Donald Wood, is Mr. Wood available, the next speaker on the list is David Biklan.

DAVID BIKLAN: Mr. Chairman, Representative Schmidle I am David Biklan, the Executive Director of the Law Revision Commission, I am speaking on Bill 5330 and 5328.

I need to let you know initially that the Law Revision Commission has not taken a decision on neither one of these Bills concerning a membership on the Law Revision Commission. I thought it would be useful for you to have my perspective as Executive Director for the last six years for the Law Revision Commission.

The major reasons I decided to speak Senator is because of your question to Mr. Green concerning the nature of conflicts and how we resolve those on the Commission. I think that's a question that the General Assembly needs to address generally for itself and also for the Law Revision Commission, and other agencies, and you need to look at how you address those issues.

Legislating by its very nature is an effort to resolve conflicts. We were doing this tonight listening to the Branford House issue. We have people of various points of view and perspectives and the way that you address those issues is that you listen to various sides and you can form opinion and you make decisions based on that. And that you have some knowledge of where those people are coming from and by the very nature of your decision some people will be benefitted and some

MRS. GOODMAN: I don't think so, no.

SEN. MALONEY: Thank you very much, have a nice evening. Mr. Pearlman, very briefly I think it was earlier today, it might have been earlier this week. I thought you might want to comment, let me phrase my interest in a question. There seems to be a serious problem, there also, however, seems to be a serious public interest in maintaining the openness and integrity of our Freedom of Information Laws. Is there any middle ground that accomplishes both purposes?

(SB 648)

MR. PEARLMAN: I think that is what the Freedom of Information Act is. Is a middle ground. I think what the evidence that you heard today was, and I'd be happy not to delay these proceedings any longer and talk to you as I talked to several members outside, is that any law that gives the rights to the public, is subject to abuse. On the other hand, the concept behind the FOI Act is because there have been known abuses by government on the basis of secrecy. I believe that this bill will have, will be used to chill people's rights to come before the Commission. I don't believe that's the case in Glastonbury, I think there have been honorable people who have been forced to mistakes for a variety of reasons. But on the other hand we have had over 3,000 cases in up to 70% of those cases our Commission has found that government agencies have denied access to records or meetings. And I fear that if you put this administrative level of hearings before hand, it is going to be used by agencies to prevent disclosure of information. To people to whom that agency does not want to give it. That is the balance I think, as I mentioned earlier and I think the statements by the Town of Glastonbury are fairly accurate, they may have misrepresented some things, like we did not have access to these charts and statements. What happens in Glastonbury is that this fellow apparently makes a written request with all these crazy things on it, and well, some more serious things than that. Human beings what they are, he gets their goat and forces them into a mistake and

184
cjp

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. PEARLMAN: (continued)

the next time he makes a request, and he only asks for information that he is entitled to, he never, there is never a claim of something that is exempt. There ticked off and they make a mistake, that he brings that before the Commission. We say did he make the request? Yes, did you deny it? Yes, but let me tell you what happened last week. And we say no, that is not the issue what happened last week its what happened here. So there might have been maybe 8, 9 cases, maybe 10 cases, and Dr. Mazzoki is probably one out of five of them. And this Declaratory ruling action that is being brought by the Town of Glastonbury is designed to fill in the blanks. I've done my best to insulate the Commissioners from that kind of information that I'm privy to conversations with people like Dick Brown, the town attorney. Because otherwise I am afraid the Commission decision might be biased instead of on the facts of the case.

SEN. MALONEY: Mr. Pearlman, would it be prudent for this Committee to, before it consider this issue further to hear from the court in regards to the Declaratory ruling?

MR. PERLMAN: Well the Declaratory ruling is before the Commission.

SEN. MALONEY: That's right, its before you.

MR. PEARLMAN: That's right.

SEN. MALONEY: I misunderstood that earlier testimony.

MR. PEARLMAN: I think, yes I think somebody misspoke. They commissioned to the FOI Commission to do this. What I am afraid, sir, is that they are making this Committee, Freedom of Information Commission, and asking for a contested case. They have presented their side. I suspect that if Dr. Mazzoki were here and the Town of Glastonbury weren't, and you see what a distinguished well spoken man he is, and talked about the five cases in which he has made requests and been turned down for no apparent

185
cjp

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. PEARLMAN: (continued)

reason. He would say, my God, what a terrible town Glastonbury is. That's the problem and I think if the legislative forum is probably not the best forum to hear an incident or anecdote like that. And assume that that's the rule. I'm assuming that there have been abuses, there are abuses by complaints. How much do you have to give up, just because somebody may get up on the stool and say, I'm let's have communists and over throw the country, or not your klu klux klan, they should have that forum taken away, their right to speak, chilled by the possibility of opening their mouth, one costing them some money or some other penalty.

SEN. MALONEY: Mr. Pearlman, one last question from me. When would you anticipate the Commissions Declaratory ruling of the issue, if at all?

MR. PEARLMAN: My guess is with due process notice, the hearing on it would probably be sometime in the beginning of April, and, you know, depending on the complexity of the case, within a month of that before its decided. I can't say that it would be before processed, but I know the Town of Glastonbury is intending to present an awful lot of evidence of, I think it was, yes, one other point I think might have been mislead and that's the cost element of this thing. There is nothing in the FOI Act that requires a town to do research for somebody like Dr. Mazzoki. If they wanted to comply with the request by saying, Dr. Mazzoki, we are happy to make whatever copies you want. Come to our files, look through and pick out the records you want, and we will make copies and charge you 45 cents a page. They can do that. Their choosing on their own to do the research. Now they may very well have good reasons, maybe they don't want him in the Town Hall because he has gun permit, allegedly they are afraid of him, that is why they filed charges, criminal charges against him. But, in fact, when they say that they spent hundreds of thousands of dollars that are noncompensated by his 25 cents a page, when most public agencies, the cost of copying is less than 2½ cents a page, their are doing research

187 186
028 cjp

GOVT. ADMIN. AND ELECTIONS February 27, 1987

MR. PEARLMAN: (continued)

for Dro. Mazzoki out of their choice, not because its required by FOI.

SEN. MALONEY: Thank you sir. Rep. Schmidle.

REP. SCHMIDLE: Representative Schmidle for the 106th district. Except for this particular isolated case, if similar things like this arose, could you handle them through your (inaudible) in your Commission, in your office?

MR. PEARLMAN: I doubt it.

(TAPE ENDS, NO TAPE 14)

MR. PEARLMAN: (Continued)

When confronted with, when we have somebody who is not really reasonable and what happens is that this is just a non-reasonable situation. For whatever the motives are, I don't know, but I don't know of any use for this information. How do you deal with (inaudible) a person like that?

REP. SCHMIDLE: I'm saying except in this instance, except in the case of Glastonbury.

MR. PEARLMAN: There are people who are who feel that they're just not getting heard by whatever local or State agency and rightly or wrongly, they want an access to information I think (inaudible) is an example of that. I don't know the merits of that gentleman's case. (inaudible) And he wants to get information so he can establish that he's wrong. And then when he brings a couple of cases at a time, he says to the Commissioner, let's fine this guy because he lost a lot. I think that would do a great disservice to the people of Connecticut just because it's an allegation of harrassment, just because the information was obtained remarking the information that the person can use to develop the case. (inaudible) That's possible. And yet, our figures, year and year out, over 75% of the people who bring complaints that we receive are from John Q. Citizen. For whatever their motivations are. These are people who come in here with great resources, court (inaudible), they think that they're bucking big government even if (inaudible). And when you have perhaps a person who's resources are more generous than a small town, then it's a reverse role.

But that's one (inaudible) and there's over three million people of Connecticut who could use the FOI Act if you wanted to change a law that goes to (inaudible) hundred ninety-nine thousand must feel a (inaudible) because they would not use it. That's a dilemma. And I don't know what you can do any other way. I don't know that we can satisfy Glastonbury's situation. I think, and I recommended to our Commission that (inaudible) and I'm not sure that we can do anything by it. For example, the gentleman I think it was one of the questions that we have here, why not (inaudible) the FOI case perspective Federal Court Judge picked up. I suspect if we did something like that,

188
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MR. PEARLMAN: (Continued)

we'd appear to appear in Court, what if the Superior Court Judge says if we (inaudible) and start again. (inaudible) at any more cases, meritless or meritorious. (inaudible) can buy people can make requests. So what good is it going to do. (inaudible) What are we going to do? I just don't know how to, I'm really (inaudible) I certainly will do my best to come up with it, but I don't know if it's a solvable situation. (inaudible)

SEN. MALONEY: Thank you. This hearing is declared closed.