

Statement by Robert H. Estabrook  
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Before the Joint Committee on the Judiciary, Connecticut General Assembly  
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Thirty-six years ago the disclosure in the Pentagon papers of presidential lying about the origins of the Vietnam War was a prelude to the worst constitutional crisis in United States history in what came to be known as Watergate. A torrent of lying by another president and his subordinates culminated in his resignation as he faced impeachment. The common denominator of the scandals in which both political parties bore some responsibility was secrecy that was imposed to shield the misdeeds.

Thanks in part to a courageous jurist from Connecticut, Federal District Judge John Sirica, our constitutional system survived the strains to which it was subjected; but the scars from the experience are still with us. In the years following Watergate and the end of the Vietnam War, a period of national self-examination led to a rediscovery of a fundamental truth known by every housekeeper: Sunshine is the best disinfectant. Unnecessary secrecy invites misbehavior. Open government is the best government.

In Connecticut revulsion over the part played by secrecy in covering up the scandals in Washington helped win passage of a new Freedom of Information Act in 1975. I was privileged to be part of a small group from the Council on Freedom of Information that called on Governor Ella Grasso to enlist her support. She advised us to get off our tails and work harder, which we did.

But seemingly the lesson must be relearned in every generation. In Washington a new blanket of secrecy imposed in the name of national security has prevented the disclosure of information that might, if known, have helped us avoid some of the

disasters that have befallen us. In Connecticut a former chief justice withheld issuance of a decision in order to influence the confirmation of his putative successor and an investigation by The Hartford Courant uncovered instances in which judges have sealed cases involving their friends. An impression has been generated by the Judicial Department that it is exempt from the Freedom of Information Act

That is some of the background for the bill you are considering to approve a constitutional amendment making clear that the rule-making authority for all the state's courts derives from the legislature and prescribing that the courts shall be open except under narrow and clearly defined circumstances. It builds upon some important reforms undertaken by the judges themselves at the urging of Acting Chief Justice Borden to make their procedures more visible to the public.

This amendment is not aimed at judges. There are many fine judges in Connecticut. But judges are human beings like the rest of us, and human beings are fallible. The intent of the amendment is to insure that judges perform their vitally important functions in an atmosphere of openness that will facilitate citizen understanding and serve the checks and balances that are so essential in a responsible democratic society. I urge you to approve it.

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