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for that matter has -- have plummeted. As a result, Mr. President, the legal services operations of the state has been significantly hindered and -- and compromised as a result of the precipitous decline in revenue for funding of those services.

Mr. President, this legislation is intended to help restore, at least in part, some of those funds through the fees that are charged in our court system.

And I believe the Clerk has in his possession LCO Number 7844. I ask that it be called, and I be granted leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7844, which will be designated Senate Amendment Schedule A and is offered by Senator McDonald of the 27th District.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, I move adoption of the amendment.

THE CHAIR:

Motion's on adoption, sir, would you like to remark further?

SENATOR MCDONALD:

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Yes, Mr. President.

Mr. President, this is a strike-all amendment that does several things, as I said, to help restore funding for legal services, but it also would provide a revenue stream for much needed technology improvements within the Judicial Branch to facilitate their transition to a essentially a paperless system or at least a -- an opportunity for them to include on their technology systems copies of filings so that they are more readily available to the public.

Mr. President, this amendment removes any mention of the occupational tax for attorneys and raises several types of fees within the Judicial Branch that in many cases haven't been raised for 20 years. Under this proposal, Mr. President, the Chief Court Administrator would be tasked with responsibility to identify that portion of the fees that are part of this legislation and 50 percent of those fees would be transferred for purposes of legal services, and 50 percent would be retained for the purposes of technology improvements within the branch.

THE CHAIR:

Thank you, sir.

Will you remark further?

Senator Debicella.

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SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, through you, some questions to the  
proponent of the bill.

THE CHAIR:

Senator McDonald.

SENATOR DEBICELLA:

Thank you, Mr. President.

Through you to Senator McDonald, looking at the  
fiscal note for this amendment, it seems to indicate  
that there would be a increase of \$14 million from the  
increase in court fees that would then be allocated  
half and half between the Legal Aid and Judicial  
Department IT. Through you, Mr. President, is all of  
that money flowing through the General Fund?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President. While I certainly am  
not a member of the Appropriations Committee, my  
understanding is that it does not.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Then, through you, Mr. President, the -- Senator

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McDonald mentioned that the increase in court fees had not occurred in over 20 years. And I've seen that in the underlying bill he also had originally the attorney occupational tax increase to help pay for this. Through you, Mr. President, if we were to increase these fees, could they not be used to reduce the deficit that we current have -- the \$8 billion deficit that we're facing? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President. While that certainly is a possibility, the testimony we received in the Judiciary Committee, however, was specifically with reference to legal services. I should note that most of the attorneys who work for legal services, first of all, work for a fraction of even what attorneys in the State of Connecticut employment make and many of them have taken 20 percent pay cuts. Their managers have taken 35 percent pay cuts just trying to survive and even still many of those attorneys have been laid off and the -- the ability of the legal services operations to actually sustain their services is seriously compromised. As a result of that, Mr.

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President, the -- the real possibility exists of many of those individuals, who no longer would have representation, would be representing themselves in courts. And the fear, which is being borne out by observations in our court system, is that those pro se litigants are going to seriously slow down the administration of justice.

And, finally, I should note, Mr. President, and, through you to Senator DeBicella, all of these fees were reviewed and endorsed by the Judicial Branch for raising -- for the needs of the Judicial Branch and legal services.

THE CHAIR:

Senator DeBicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

I thank Senator McDonald for that explanation. The -- unfortunately or possibly fortunately, the Judicial Branch does not set the budget for the State of Connecticut. Even if they agree upon these fees, this legislature has the responsibility for crafting a budget.

And, through you, Mr. President, the final question. Why aren't we dealing with this in the context of the budget negotiations that are going on

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right now? I don't think I'm breaking very much confidence to tell you we are talking about everything, including fees. And it seems to me that we are dealing with a new appropriation and a new increase in fees outside of the context of what we're talking about in a holistic budget. Why are we doing this as a separate bill and not as a part of the budget where we can compare and contrast this with other priorities? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I certainly am not privy to those negotiations not being a chair of one of the budget committees. I do know, however, that the urge -- that the need for these fees and the use to which they would be put is urgent. And -- and it was the opinion, at least, of the Judiciary Committee that this would be the most efficient way of providing those needed fees as quickly as possible.

THE CHAIR:

Senator DeBicella.

SENATOR DEBICELLA:

Mr. President, I thank Senator McDonald for those answers, and I stand in opposition to this bill. Not

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on the merits because I believe that Senator McDonald has laid out a case for why incremental appropriations may be necessary. However, I have to tell you that if we start taking piecemeal items that are worthy and debating them in the circle, you are inherently saying that this \$14 million is more important than everything else we're talking about in the context of budget.

I think we would all agree that the Democratic budget, the Republican budget and the Governor's budget all make different tough trade offs, and a lot of stuff in there that none of us really like. Nobody wants to talk about higher taxes. Nobody wants to talk about cutting spending. They're tough, tough choices. But what this bill does is say this is more important than that. So let's actually raise these fees -- \$14 million that could be used to reduce the deficit and let's just spend it. And it might be a very worthwhile thing to spend money on but without the context of the trade off of saying is this more important than cuts to DCF or cuts to DSS or cuts to higher education. All of which exist in all of our budgets that we've purpose.

This essentially says don't worry about that, we're going to take care of this one issue rather than



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looking at it in a holistic context. And I can tell you, Mr. President, that people on both sides of the aisle and from both the executive and the legislative branch are making a good-faith effort to come to a conclusion on the budget deficit. Let's not, by passing this bill here today, start the precedent this session of tying the hands of budget negotiations by piecemeal passing the fees increases and new spending.

I'd be more than glad, Senator McDonald, to talk about this in the context of the broader budget. I think the underlying rationale has merit.

I just do not believe, Mr. President, we should be passing these things piecemeal today. I would encourage a no vote on the amendment and the underlying bill.

Thank you.

THE CHAIR:

Thank you, sir.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Some questions, through you to the proponent of the amendment.

THE CHAIR:

Senator McDonald.

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SENATOR KISSEL:

Senator McDonald, my good friend and colleague, not to be tedious and while we are living in a super high-tech world right now where folks could probably go online and -- and get access to this amendment, just as we can, I think it would be helpful since this particular amendment is proposing a significant number of fee increases if for those folks who might be watching this on the CT Network either right now or at 3:00 in the morning, and particularly those who might be interested because they either practice law or they might be looking at filing some kind of litigation either in regular superior court, civil docket or maybe small claims. If we could just walk through these changes so that we know exactly what we're about to move from, as far as fees, and to, as far as fees.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, the -- through you to Senator Kissel, certainly, members of the public had an opportunity to watch our public hearing where this was talked at length in our committee meeting where the proposal -- the underlying proposal was debated and

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voted out unanimously by all of the members of the Judiciary Committee where these items were discussed.

But, in general, the fee increases deal with the filing of civil actions, the entry fee for small claims actions, the fees for jury char -- jury claims -- I should say -- the fees for judgment of creditors and bank executions are all raised in various amounts as outlined in the amendment. And, certainly, any member of the public can view that on our website under this bill number, which is 1157. And the LCO Number is 5 -- 7844.

But just for -- by way of example, the jury fee would be going from \$350 to \$425. And the fee for entry of a small claims matter would be going up to \$75. The fee for civil cases would be -- also be rising and the fee for filing an open -- a motion to open a judgment would be going from \$70 to \$125 if that's of assistance to Senator Kissel.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And I very much appreciate your response, Senator McDonald.

So that we all have an idea as to what's happening with fees in our Judicial Branch, they're

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increasing in excess of 25 percent, essentially, across the board. Regarding in the area -- and I know that you and I have discussed it several weeks ago, but one of the areas that is -- does touch upon folks that may not have often dealings with the court system is small claims. And the small claims bump is fairly significant, but it's also my understanding that there's a handful of law firms that really generate most -- most of the business in the small claims courts. And if you could, through you, Mr. President, to Senator McDonald, extrapolate on that so that the folks watching this know that our committee put an awful lot of time and thought into this impact on small claims matters, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Kissel, the fee for small claims actions in the -- on the -- in the underlying bill would have been actually different for those individuals or entities that filed large -- numbers of small claims actions. This amendment eliminates that distinction because there were arrang -- concerns raised about not only the fairness but perhaps the

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legality of having that differential rate. So this would make it clear that all small claims cases would be going to \$75 per case. I should also mention that, though, that is a significant increase, we did a couple of years ago also raise the amount that could be in controversy in a small claims action. I believe it's from \$3500 up to \$5,000. And, at that time, there was no similar change in the filing fee at the time that we made that adjustment.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

And, again, to extrapolate on some of this, because I think it's important for folks to know because, at least from my perspective, my gut says, I'm against tax increase, I'm against fee increases, going in this direction is not healthy or helpful to the people of the State of Connecticut but acknowledging that there's the slight increase in the small claims and that most of these other fees are going to directly devolve upon folks that practice before the Judicial Branch. I'm wondering it's my recollection that folks from the Connecticut Bar Association made a representation on behalf of their

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membership and that they actually went through the process of soliciting opinions that they feel so strongly about trying to help keep Legal Aid and Legal Aid attorneys afloat that they were supportive of these fee increases; is that a correct statement?

Through you, Mr. President

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, that -- that is correct, Senator Kissel. The Connecticut Bar Association, the Connecticut Bar Foundation, the -- even the Judicial Branch, everybody was very, very encouraged by this proposal because it would meet such a substantial need for those who are the least fortunate in our justice system.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And no further questions to the proponent of the amendment, which would become the bill, but what I wanted to state also is that as much as there's been an incredibly precipitous drop in the amount of funds available to our legal aid societies here in the State

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of Connecticut -- and I'd be the first one to say that in housing matters or other matters when I bumped up against an attorney that was involved with legal aid, they know the law upside down and sideways. They are very, very good at what they do. But, also, as much as it was difficult to litigate against folks involved in legal services, they performed an extraordinary valuable service.

And I know in talking to folks from the Judicial Branch and, indeed, at a -- a recent dinner discussion where folks from not only the bar association were present but also sitting judges that have been tasked by Chief Justice Rogers to examine how the recession's going to impact the Judicial Branch, the tremendous of new numbers of pro se litigants or litigants that are representing themselves that quite often what we're going to find is, in difficult times, difficult economic times, there's even more responsibilities and burdens put on those attorneys that have set out a career path, maybe not to make a ton of money, certainly not to make a ton of money, but to represent those most in need, the indigent, the poor, the people that just can't make ends meet. And so if we don't go about the business of, maybe, with a grain of salt going forward with this kind of increase and taking

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some of these proceeds and helping folks in the legal aid societies and folks that have dedicated their careers to helping those in need, what we're going to find is an even greater influx of pro se litigants that despite the best of intentions and despite pamphlets and even DVDs that are going to be promulgated to help assist them work their way through the court system, that at the end of the day if legal aid and -- and those attorneys aren't there, then it creates even that much more of a burden on the Judicial Branch and, ultimately, costs us all more to get that quality of justice that we expect here in the State of Connecticut.

So for those reasons, I believe this is a tempered approach. I understand that it's controversial. I'm extremely sensitive and understanding of the concerns raised by my friend and colleague, Senator DeBicella. At some point, as budget negotiations move forward as we are all hopeful that continue to do, this may end up being part of the equation. But that's -- at this point in time, given the legislation before us and its extraordinarily laudable goals, I stand in support of the amendment and urge my colleagues to support it as well.

Thank you, Mr. President.



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THE CHAIR:

Thank you, sir.

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

If I may have a question, through you to Senator McDonald.

THE CHAIR:

Senator McDonald.

SENATOR CALIGIURI:

Thank you, Mr. President.

And I apologize if this was addressed in your summary, Senator McDonald. And I'll -- I won't ask you to repeat for you to repeat yourself if you -- if you did address it in your summary, but I don't recall you doing so.

As I read the amendment as compared to the underlying bill, I think the primary difference between the two is the elimination of the increase in the occupational tax on attorneys and the substitution in lieu thereof of higher court fee increases. That strikes me as being a principle if not primary difference between the amendment that we're on right now and the underlying bill, through you, Mr. President; is that correct?

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THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President. I would say that that's a significant character or component of the amendment, yes.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

And this is not by way of comment, I -- I don't have any additional questions for Senator McDonald.

I wanted to establish that because I'm a supporter of the amendment, and, ultimately, of the underlying bill because I think notwithstanding Senator Debicella's concerns, I view the bill and the reason why I'm going to support the amendment is because I view this as providing much needed funding to legal aid. And, in my judgment, you can't have a just and democratic society without ensuring that every member of our society, including our poorest members of our society, have access to quality legal representation. And we simply cannot do it at the levels of funding that are currently in place.

Frankly, if I had my druthers -- and this is why

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I asked Senator McDonald the question that I did -- I would have preferred the original version of the bill where members of the bar shoulder that obligation. Because when I look at the differences in fees, we are going to be imposing higher court fees in lieu of imposing higher occupational tax fees on attorneys. And the reason I was -- a reason that I was a supporter of the underlying bill when it was originally presented to me is because I felt attorneys had a moral obligation as members of the bar to step up and pay more in order to help make sure that the system within which we are operate is properly funded and that justice is available to everyone. And so I would have much preferred to have seen that happen even though that would have meant that I and others in the bar would have to pay more. But, notwithstanding that, I still think this is something that's worthy of support because this is going to raise much needed support for legal services, which is essential to maintaining a truly just and widespread court system that everyone can benefit from in our society.

And so for those reasons, I'll be supporting the amendment, but I wanted to go on record as saying I would have preferred that we do it the way the underlying bill had originally suggested it.

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Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, speaking in support of the amendment, I would want to thank Senator McDonald and Representative Lawlor and the Judiciary Committee for -- for bringing this forward. They have been dealing during this entire session with the crisis and funding for legal services in Connecticut. And, indeed, a crisis it is because that enterprise -- and it's several offices around the state, in Hartford, New Haven and other parts of the state have been heavily dependent upon funds through the interests on lawyers' trust accounts, which we all know has taken an extraordinary hit with the decline in the economy, beginning with the -- with the mortgage sector. And the -- those proceeds were from real estate closings primarily being held in escrow and that has been more than anything else accountable for the crisis that we face. And, as Senator Caligiuri said, there is an obligation to provide legal services. There are low-income people throughout Connecticut who pressing

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legal problems. And the people who were in those legal services offices around the state have borne a disproportionate burden of the -- of the economic crunch because they have taken significant pay cuts. They continue to work hard to advocate for their -- for their clients. This bill and the next bill, which I believe that Senator McDonald will be bringing out deals with -- are companion bills in a way dealing with this -- this issue. And the -- raising of fees in the bill also is a reasonable response. Many of these fees have -- have not been raised in a substantial period of time, and they are significant generators of -- of revenue for what I think we can all agree is a crucial service in the state of Connecticut and would ask for a roll call vote on the amendment.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

I supported this bill in both Finance and Judiciary with the understanding that the legal community was going to participate in the funding

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requirements of -- of legal aid to those who are desperately in need of it. And although I was very reluctant at the time to entertain the thought of raising fees to anyone for that matter, I do, in fact, ally my thoughts with the comments of Senator Caligiuri in that I am disappointed that this amendment has removed that responsibility of the legal community participating in a greater way by an increase in fees. And I will continue to support this bill, but I just want to voice my strong opposition to this change.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

Mr. President, I, unfortunately, rise in opposition to the amendment on two grounds. One, I think the underlying bill is a more fair and equitable way to raise resources to help IOLTA and the Judicial Branch with their technological and necessary technological improvements. But, number two, I -- I side with Senator DeBicella that this is not the right

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time and place to do this.

There's no doubt that we need to provide the help for legal aid. No doubt about it. And I would dare say that all four caucuses of this legislature and the Governor in crafting a budget want to make sure that that's part of the budget that, hopefully, we'll reach in a bipartisan fashion. As to the technological needs of the Judicial Branch, that also I think might be something that we would look at. I wish to these two issues were separated because I'd be far more willing to make an exception for legal aid than for legal aid in judicial department technological advancements.

There is some talk and there has been some talk -- I know the Chief Justice -- I met with her about giving the Judicial Branch its own block grant budgeting, and maybe that's something that might happen. This would seem to be additional money on top of that so I'd be concerned about that as well.

I -- I think and -- and I don't have any criticism for Senator McDonald. I think he's doing something that he believes is right and necessary to do, and it is necessary to do. I just don't think now's the time to do it. We are raising fees here, and I don't want to go over all of them. I did see

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briefly one which is an increase in the fee in the small claims courts. I think that should be a little bit troubling to some of us. We've raised the threshold for small claim matters, which has made more people move to small claims courts. Tend to be people who don't hire attorneys, represent themselves, and I'm concerned that for some that may be a bar of bringing a claim. You know, if your have a \$700 claim, are you going to, you know, go in for a -- a fee that might be maybe, you know, a third of that.

So we've been here before as well, Mr. President, towards the end of sessions. We don't have a budget agreement. There are important public policy issues that need to be acted upon and we tend to do them piecemeal. Senator Caligiuri said, and he's absolutely right, that without legal aid it's hard to have a fair and just democratic system and I agree. I dare say that he would probably agree with me that it's hard to have a fair and just society when we have people living in our streets at night without a home. So does that mean I can offer an amendment to raise fees and provide money for homeless shelters? I could. Maybe the majority would vote with me. Maybe I will do that. But then I'm sure another senator in this circle could get up, and maybe Senator Witkos



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could say, it's hard to have a fair and just society if we don't have the rule of law and the very people who put their lives on the line every day to protect the rule of law are police officers, and so we're going to offer a bill to fund them. And then somebody might stand up and talk about how none of that would matter if we don't properly educate our children. What's the point of all of it? Education is the equalizer for everybody. And so we can offer a bill just to do something to make sure we've properly funded education in the State of Connecticut. And so I think you get my point. We begin to do a budget piece by piece by piece. And this is a very critical piece for legal aid. There's no doubt about it. But it is a part of what should be a much larger budget that is adopted by this legislature and signed by the Governor, hopefully, by June 3rd or at least by June 30th this year.

So I'm going to stand in opposition to the underlying -- to the amendment because I think the underlying bill provides a better, fairer way. There may be discussions later where attorney occupational fees and other fees of other occupations are looked at, perhaps in the budget context. So I understand why they're probably taken out here. But I know

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everybody in this circle wants to help legal aid.  
That's why we're doing this.

And I don't have any criticism for the people who wanted -- want to do that because I want to do it, too. I just think this is the right time or place. I think when you create an exception like this for one, we're going to have a lot people knocking on that door to create exceptions for them because there are so many important things that we need to do as a state, as a legislature, with respect to our budget. And that's where this should be done, in our budget discussions with a budget deal, hopefully agreed upon by all four caucuses.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

I, too, rise with conflicted heart and conflicted head. I -- in both the Finance and the Judiciary Committee have been I think the most ardent of proponents of finding a way to help legal aid keep its head above water, because I, like Senator McKinney,

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recognize the imperative of having a strong legal aid component of our society. However, when I look at the amendment before us, I'm fearful that we're working at cross purposes. Because when we raise the small -- the small claims entry fee from \$30 or \$35 to \$75, we're, in fact, erecting a barrier to justice to people that are least able to avail themselves of our courts.

Mr. President, I think that the more equitable way -- and it's great, we hear the Connecticut Bar Association supports the amendment. I don't know if they support it because we've removed that part of the amendment which would have asked lawyers who best understand the need for legal services to pay a little bit more to support the program or whether they're asking us to support the amendment because of their belief that we should continue funding legal services.

If they believe we should continue funding legal services, then, quite frankly, I think the legal community ought to be the first to belly up to the bar to support the program. None of the fees that we see here are paid by lawyers. Don't be -- don't be deceived into thinking that these fees are costs that will be borne by lawyers. It might be a much more attractive bill to people if they thought that were

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the case. But these fees are borne by members of the public who are trying to get justice. These fees are passed on by lawyers to their clients, or, in the case of small claims, they're fees that are paid by our constituents who are trying to take advantage of the rule of law.

So I sadly think that we -- we could do better. I think the underlying bill was the more responsible way to do it, a fairer way to do it. And I think that we shouldn't breathe life into legal services at the expense of making justice more difficult to access for the ordinary citizen in Connecticut. And for that purpose, with sadness, I'll be voting no on the amendment.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate Amendment A?  
Will you remark further? If not, Mr. Clerk, please call for a roll call vote. The machine will be opened.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. An immediate roll call has been ordered in

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the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators have voted? If all Senators have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption Senate Amendment Schedule A

Total Number Voting	35
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Those voting Yea	28
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Those voting Nay	7
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Those absent and not voting	1
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THE CHAIR:

The amendment passes.

Will you remark further on the bill as amended by Senate A? Will you remark further?

Senator McDonald.

SENATOR MCDONALD:

Mr. President, just -- as I said the underlying -- the underlying amendment was a strike-all amendment. I would just urge members of the circle to support the bill because the cause is a worthy one and, in my opinion, deserving of their support.

THE CHAIR:

Thank you, sir.

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Will you remark further? If not, Mr. Clerk,  
please call for a roll call vote. The machine will be  
opened.

THE CLERK:

Immediate roll call has been ordered in the  
Senate. Will all Senators please return to the  
chamber. An immediate roll call has been ordered in  
the Senate. Will all Senators please return to the  
chamber.

THE CHAIR:

Have all Senators voted? If all Senators have  
voted, please check your vote. The machine will be  
locked. The Clerk will call the tally.

THE CLERK:

Motion is on passage on Senate Bill 1157, as  
amended

Total Number Voting	35
Those voting Yea	31
Those voting Nay	4
Those absent and not voting	1

THE CHAIR:

The bill, as amended, passes.

Mr. Clerk.

THE CLERK:

Calendar Number 473, File Number 686, Senate Bill

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1160, AN ACT CONCERNING THE INTEREST EARNED ON  
LAWYERS'S CLIENTS' FUNDS ACCOUNT PROGRAM, favorable  
report of the Committee on Judiciary and Bank. Clerk  
is in possession of an amendment.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I move  
acceptance on the Joint Committee's favorable report  
and passage of the bill.

THE CHAIR:

Acting on approval and acceptance of the bill,  
will you remark further, sir?

SENATOR MCDONALD:

Yes, Mr. President.

Mr. President, as I indicated at -- with respect  
to the prior piece of legislation, this is a companion  
piece that is intended to also address the underlying  
problem of IOLTA Funding. Under current law, Mr.  
President, the accounts to which IOLTA applies are  
limited by law to -- to accounts where there's than  
\$10,000 or the money is expected to held for 60 days  
or less. This allow -- this bill, Mr. President,  
allows participation in other accounts, as well, and  
can be approved by the lawyers who have control of

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those trust accounts.

Mr. President, I believe the Clerk is in possession of LCO Number 7006. I ask that it be called, and I be granted leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 7006, which will be designated Senate Amendment Schedule A. It is offered by Senator McDonald of the 27th District, et al.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, I move adoption.

THE CHAIR:

Motion's on adoption. Would you like to remark further, sir?

SENATOR MCDONALD:

Yes, Mr. President.

THE CHAIR:

Proceed.

SENATOR MCDONALD:

Mr. Pres -- Mr. President, this amendment is a technical amendment and cleans up a couple of errors and typographical -- or nomenclature problems in the



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underlying bill.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A? Will you  
remark further on Senate A? If not, let me try your  
minds.

All those in favor, please signify by saying aye.

Opposed nay.

The ayes have it. Senate A is adopted.

Will you remark further on the bill as amended by  
Senate A?

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. Just a  
question or two, through you to the proponent of the  
bill as amended.

THE CHAIR:

Senator McDonald.

SENATOR KISSEL:

He's deep in thought. Thank you very much.

One of the questions that I had regarding this is  
when we had that bright line test regarding the  
interest on lawyers' trust accounts -- and, by the  
way, for those folks that are concerned about sort of  
taking pools of money that should be the subject of

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budgetary negotiations, as much as the interest on lawyers' trust account, I guess, could conceivably be considered as part of the budget negotiations. Historically, it is money that is simply set aside for small periods of time, and the whole notion of the interest on lawyers' trust accounts never ever had been part of underlying budgets. But, that being the case, my concern is and I'm wondering what's in the underlying bill that would protect an attorney from having a certain amount of money in an account in excess of what currently is the custom. And I've always been told that time is money and money put somewhere for a certain amount of time will increase. And, at some point, the attorney has a fiduciary duty to the client or wherever those funds are going to make sure that they protected that asset. And so is this proposal open ended such that if an attorney had \$200,000 as proceeds from a closing and set it aside for three days, I'm not sure how much interest that would glean, but it wouldn't be completely insignificant and they decided to use this for the interest on lawyers' trust account. And then that attorney's client said, I don't want my interest, times are tough and even if it's 50 bucks, I want the 50 bucks, you know, don't be putting it in that

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account, put it in an interest-bearing account where I get all the proceeds.

What are the lines and what are the guidelines for attorneys so that they don't run into any trouble with their clients? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Kissel. Under the bill, as amended, there are certain factors that would be considered by an attorney in determining whether the -- whether the funds could earn income for a client in excess of, essentially, the costs of the transaction. They are outlined in lines 53 to 70. And, to address Senator Kissel's concerns, in line 71 to line 74, indicate that a attorney would not be subject to a complaint or any kind of claim of misconduct for depositing funds in this type of account.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. So even if it was a substantial -- even if it was a million dollars and the attorney decided because they feel very strongly

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about helping legal aid, and they deposited it in --  
in an IOLTA account for 30 days, and the client was --  
felt that that was some form of malpractice or,  
certainly, breach of a fiduciary duty, would that  
client have no ability to seek redress from the  
attorney under the language of this bill as amended?  
Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, to Senator Kissel.  
Well, anytime a attorney holds funds and trusts for a  
client that attorney is obligated to turn them over to  
the client if they are to be disbursed to the client  
whenever that attorney is requested. If the attorney  
didn't do that, that might be a claim of misconduct by  
the attorney but, merely for the attorney's decision  
to hold the funds for a period of time in a IOLTA  
account, would not be a subject matter for any claim  
of misconduct.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. Well, I appreciate that  
answer. There's certainly strong safeguards for

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attorneys in the bill as amended. I think it will have the tendency to help bolster the interest that flows into the IOLTA account and, thereby, is directed towards legal aid societies. I guess what I am hoping occurs down the road because it's too late for us to do it here or -- or maybe it's best left to the bar association, but my guess is or my hope is, is that leaders of the Connecticut Bar Association take it under their wing to, perhaps, carve out some guidelines so that attorneys feel a little bit more comfortable as to what latitude they may or may not have. Only because when individuals are dealing with -- with any -- almost any -- what I've discovered over the years is sometimes those amounts of money that you feel are not a problem become a problem. And so, in my examples, perhaps the million-dollar situation would never be a problem. But when it's like a \$20,000 deposit even for a few days, the person, the client, might have a real concern with even the small -- modest amount of interest that's generated. My guess is that to steer away from any potential conflicts that attorneys in their client-fee agreements will have to have this call spelled out. And, typically, these things run into problems when it's wired funds for a real estate closing. Instead

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of the closing happening on one day, it happens after a weekend and things like that. But there's going to be some folks probably much better versed at these issues than I that can that can figure that out.

But, that being stated, I appreciate Senator McDonald's explanation of what this bill actually will do and possible ramifications on attorneys practicing law.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate Bill 1160?

Senator McDonald.

SENATOR MCDONALD:

If there's no objection, might this item be placed on the Consent Calendar?

THE CHAIR:

Motion is on the floor to place the item on the Consent Calendar. Without objection, so ordered.

Mr. Clerk.

THE CLERK:

Calendar Number 492, File Number 714 and 957.  
Substitute for Senate Bill 966, AN ACT PROHIBITING  
BLOCKING THE BOX, favorable report of the Committee on  
Judiciary, and Planning and Development. Clerk is in

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possession of the amendments.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

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

THE CHAIR:

On acceptance and passage of the bill, sir, would you like to remark further?

SENATOR MCDONALD:

Yes, Mr. President.

Mr. President, this bill would allow municipalities with a population of more than 50,000 people to establish by ordinance a designation of intersections by the legislative body where the legislative body could post signs indicating that blocking the box, if you will, would no -- would be prohibited and subject to an infraction.

Mr. President, that blocking the box term would apply to a motor vehicle not proceeding into the intersection unless the vehicle was going to be able to traverse the intersection without obstructing passage of vehicles when traffic control signals would change. And I would urge passage of the bill. The legislation was -- was originally contemplated in a

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prior session of the General Assembly to apply for any municipality, though, some -- many members of the legislature who represents smaller towns were concerned and did not wish to have this legislation considered by their local legislative bodies, which is why it is limited to municipalities of 50,000 or more.

As a legislator representing an urban district, I can tell you that this type of situation is particularly of concern at rush hours in some parts of our state, and I know, Mr. President, that you would fully recognize the intersections that I might tell you about as a resident of -- Stamford where this is a particular problem. I do -- I would also like to just think the members of, actually, the Republican Party in my hometown particularly the Minority Leader of our legislative body, Representative Gabe DeLuca who brought this matter to our attention and asked that this chamber consider this legislation.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I rise to ask a question of the



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proponent of this legislation, through you.

THE CHAIR:

Senator McDonald.

SENATOR BOUCHER:

Mr. President, could I please ask the proponent why this is limited to those municipalities above 50,000 population? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

As I indicated in my introduction of the legislation, when we previously proposed this in prior sessions of the General Assembly, there were many legislators from smaller communities who didn't think that this was a issue and shouldn't become an issue in their municipalities, objected to the inclusion of those small -- smaller communities and asked that any future legislation not involve those smaller communities. And that's why the number 50,000 was included to accommodate their concerns.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

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Further question, through you to the proponent of this legislation. There are other communities that may fit under the under-50,000 population but encompass a very busy thoroughfare -- fare, and I would point out that Route 7 in -- in the towns that I represent has a very high volume of cars passing through, and when we are under construction, as we are, and expanding our roadway, we oftentimes have a problem with just this issue. In fact, I know one, in particular, where there was a roadway going to the main train station in the town during construction that was blocked on a continuous basis and had an issue with not blocking the box.

I'd love to hear any reaction or comments by the proponent on an issue, such as this, as there probably are many other towns that fall in this category, possibly towns in the Route 6 corridor, Route 11 corridor, Route 25 corridor, and so forth, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President. I certainly am familiar with some of the problems that Senator Boucher has identified, and I would be -- I mean, I

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originally proposed in prior sessions of the General Assembly that it -- it be available to all municipalities. I guess in some ways, Mr. President, this -- if this -- if this is adopted, in some ways this would be a trial run for municipalities of 50,000 or more. And if it worked out well, I suspect other legislators in other sessions of the General Assembly would ask that it be expanded to include any municipalities if they so chose to designate an intersection.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Mr. President, I really appreciate the response to my questions by the proponent. And I look forward to working very closely in future sessions to accomplish just such a goal. Thank you very much.

THE CHAIR:

Thank you, ma'am.

Senator LeBeau.

SENATOR LEBEAU:

Thank you, Mr. President.

I'd like to pose a question to the author of the bill.

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Senator McDonald.

SENATOR LEBEAU:

-- the proponent. Through you, Mr. President.  
East Hartford as I -- as I understand East -- this is  
for cities of a population over 50,000. So if East  
Hartford has a population of 50,050, we would be  
eligible to participate in this program?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

That would be correct, Mr. President.

THE CHAIR:

So you would not be boxed in, Senator LeBeau.

SENATOR LEBEAU:

I wouldn't want a son of East Hartford boxed in.  
Thank you. Thinking -- thinking out of the box, we  
have over here on the right. Thank you. Thank you,  
Mr. President.

I want to thank Senator McDonald for bring this  
forward. I know we saw a similar proposals last year,  
and I know we saw similar proposals in the  
Transportation Committee. I have to say every night I  
drive home I go up around the circle, Pulaski Circle,  
go up by the Wadsworth Atheneum and come down around  
by the -- the museum, the New Science Center Museum,

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and people block the box. They're just out there, hanging out there, and the people can't get across, and you can't get on the highway. And it's just very inconsiderate. You know, they're hoping that the lights are going to change and they're going to be able to make it through. And I'm sure they're not trying to be deliberately stopping traffic because they -- but everybody's, like, looking out for themselves. And I think this a very practical measure. I've seen it work in New York City. And I think it's a terrific idea. I'm glad we're finally doing this in Connecticut.

Thank you, Mr. President.

And thank you, Senator McDonald.

THE CHAIR:

Thank you, sir.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

Through you, a couple questions to the proponent of the bill.

THE CHAIR:

Senator McDonald.

SENATOR KANE:

Thank you, Mr. President.

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Towns under 50,000, or everybody else, let's say in the State of Connecticut, or every town, for that matter, do they have the ability to propose this ordinance on their own without legislation? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, no, they don't. They don't currently have that authority that -- that was actually a subject of inquiry in my city of Stamford and that's why the Republican members of our local legislative body brought this forward to my attention so that we could address it and provide those municipalities with that authority.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Through you, Mr. President, may I ask why they don't have the ability to impose something like this? Through you.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, it is currently

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not an infraction to block an intersection. It may certainly be poor manners. It may certainly be against the -- the -- the normative rules of the road, but it's not against the law.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Do muni -- thank you, Mr. President.

Through you, do the towns have the ability to put on their own books ordinances for other traffic violations or traffic law similar to this? Through you.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

You know, actually, let me clarify my prior remark. There would be nothing that would prevent a municipality from putting up a sign that says don't block the box. There would be something that would prevent anybody from issuing an infraction for actually blocking the box. I, perhaps, was a little bit too quick in answering Senator Kane's question on that.

THE CHAIR:

Senator Kane.

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SENATOR KANE:

Thank you, Mr. President.

Just two more questions if I might. Is this a mandate on our towns? I believe it says that the bill requires the municipality to post signs. I just wonder if that's a mandate on our towns, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Well, no, Mr. President.

Through you, actually, in Subsection B, it says any municipalities with a population of more than 50,000 may by ordinance -- ordinance designate one or more intersections within that municipality so it's not a mandate.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Great. Thank you, Mr. President.

One last question, what about the -- the -- the painting of the lines. Could there be any confusion with existing crosswalks that are generated in these intersections? And how would that interfere with those said crosswalks? Through you, Mr. President.



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THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, the language with respect to the painting was to try to describe something that is well known to many people who have, perhaps, visited New York City because that's exactly the type of hatched marking, if you will, that many people have seen painted on roads to delineate the box that we are hoping not to block.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I  
Thank the gentleman for his answers, and I appreciate clearing those items up for me.  
Thank you, Mr. President.

THE CHAIR:

Thank you.  
Will you remark further?  
Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.  
Every now and then as we're going through the session, if I don't serve on the committee, I get my

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Senate calendar, I start flipping through and seeing -- looking at some of the titles of the bills, and I saw Senate Bill 966, Blocking the Box. And I said, well, that sound's pretty interesting. I'm going to get on my computer up and look it up and see what it does. And I liked what I read. I think it's a -- it's a good tool to create -- or alleviate, I should say, the logjams that -- that occur. And we've heard from -- testimony from others already, and I think back to my personal experiences in my -- my life outside this chamber. If I'm working at a car accident or there's a disabled car on the roadway. And next thing you know, it's start backing up traffic. Well, in the cross streets, they can't go across because everybody's riding the bumper of the car in front of them. And before you know it, the horns start blasting. People get out of their cars. We've had to clear accident scenes to go to address road rage issues because people were upset that somebody was so close to their car or they got so close in cross traffic they caused another accident, thus, exacerbating the whole situation. So I said this is a great bill. Great tool for law enforcement. But, then, I read that actual details of the bill, and I was disappointed that it showed that your

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municipality had to have a residency a 50,000 cars -- or 50,000 persons are more.

Now, I have in my district -- one of my towns -- there's over 30,000 cars that travel through that town on one particular road on a daily basis. So I felt it was unfair that we should just put a provision that says it has to be 50,000 persons or more. So with that, Mr. President, the clerk has in his possession LCO 7484. I ask that it be called, and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7484 to be designated Senate Amendment Schedule A, is offered by Senator Witkos of the 8th District.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. I move adoption.

THE CHAIR:

Motion is on adoption. Would you like to remark further, sir?

SENATOR WITKOS:

Yes. Just one quick comment, Mr. President. We

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often talk about local control. We don't like to see local control from our local elected officials but yet this bill does just exactly that. We're not going to give every local official the opportunity to enact this ordinance if they so choose. I find it wrong that a legislator would come up and say don't put that into my small town because I don't want my elected officials to make that determination if it's good for their community or not. This will allow everybody, every municipality in our state, if they want to adopt the legislation then that will be a local decision. I asked the chamber for its indulgence and passage of the amendment.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A?

Senator McDonald.

SENATOR MCDONALD:

Mr. President, I rise sadly in opposition to the amendment because it actually would achieve something that I originally tried to do a couple of years ago. And I am certainly not here to -- to represent the views of those who opposed this leg -- type of legislation for smaller communities because, I think,

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Senator Witkos is correct that it could be useful for smaller towns that might happen to have large traffic volume. But I know that that was a basis for this legislation being defeated in the last -- the last time it was offered so I would oppose the amendment. And, frankly, the opposition was more in the House than it was up here. So with all due respect to Senator Witkos and the amendment, I would ask members of the chamber to oppose this. If there is consensus in the House and they want to actually add it, I would be happy to urge members to adopt that amendment if -- if it came back. But, for now, Mr. President, I would oppose the amendment and ask that the vote be taken by roll call.

THE CHAIR:

A roll call vote will be ordered.

Senator Boucher, ladies first.

SENATOR BOUCHER:

Thank you, Mr. President, much appreciated, I'm sure.

In having discussed this bill just a minute ago and getting assurances of working on this in the future to help accommodate our smaller towns, I did not realize I'd be provided with such a -- an opportunity so soon to address the very concerns that

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were just mentioned. And I do thank my colleague, Senator Witkos, for bringing this -- this amendment forward because it really does address the circumstances that we have. I think towns should be allowed to on -- on at-will basis to take advantage of this if they so choose, giving local control. Because, as I pointed out, recently, and so many of you know about the Route 7 corridor issues of congestion and problems that we've had over the many years and how we're addressing those by doing a landmark widening project that has been ongoing for the last three or four years, and very well I might add, to often we like to criticize our Department of Transportation. Here's a wonderful opportunity that I have to compliment them, to commend them, on the great work that they're doing, how well they've communicated with our -- with our first selectman and our board of selectman and with the town on -- during this very arduous process. But, early in this process, they did have a lot of traffic and construction occurring at a very difficult location where there was a road going to our main train station, one of our corporate buildings, where there was a great deal of traffic every day within just a few feet of another major intersection, creating a bottleneck that was near

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impossible for individuals to get through, to the point where that intersection had to be closed and a new -- new road created with a traffic light.

So, for future situations, such as this, this amendment would go a long way to resolving the issue. For that reason, I -- I heartily support this amendment, and I hope it can be perceived as friendly. And it certainly is the appropriate place to start here in the Senate since it has not gone down to the House to make all the appropriate changes that would help so many of our smaller communities.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Boucher.

Senator McDonald.

SENATOR MCDONALD:

Mr. President, thank you allowing me to rise for a second time.

I just had an opportunity to speak with Senator Witkos, and, based on that conversation, Mr. President, I would reverse my position, and he is very persuasive one on one. And he assures me that -- that if this amendment is adopted here, he will use his best efforts in the House to ensure passage in the House, as well.

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THE CHAIR:

He didn't have his infraction book at the time with him, Senator McDonald, did he?

SENATOR MCDONALD:

Nor his uniform on, Mr. President.

THE CHAIR:

There you go. All right. Would you like to discuss Senate 8 further? If -- if not, we have a roll call vote.

Senator McDonald.

SENATOR MCDONALD:

Mr. President, based on my most recent comments, I no longer request a roll call vote either.

THE CHAIR:

Let me try your minds then.

All those in favor, please signify by saying aye.

Opposed nay.

The ayes have it. Senate A is adopted. Will you remark further on Senate Bill 966 as amended by Senate A.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

Any -- any of you who have been to Boston, New York City or any other major metropolitan area know that



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this is a vital piece of traffic equipment, for lack of better word, or a designated area to allow traffic to move freely through, especially when it's backed up by police presence or at least a traffic authorities presence near that box with a -- with a ticket book out of their pocket, like there's no one ever stays in the box. But I can tell you we already have these boxes in the town that I live in, and they work like a charm. Even without the ability to give a ticket, to issue an infraction, they work like you wouldn't believe. People are scared to death of the box, and it really makes things a lot more efficient. And it's extremely rare that you see someone not understanding what the picture is all about. When you see a box, you just clearly don't go into it. And you try to get your car out of it. If there's -- if there's not a lot of room between you and car front of you that's stopped at the stoplight.

So I -- I think it makes good sense. I'm glad that we are in general agreement that it should apply to towns of all sizes, even if there was a cut off at 10,000 and we have towns in Connecticut that are smaller than 10,000, my message to them is that just -- just paint the lines, people. You don't even need to put up the signs. Just pay -- pay for the paint

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and it will work. People get the idea very, very quickly.

One quick question for the -- for Senator McDonald, through you, Mr. President. There is no amendment to exempt anybody in the box whose name is Jack; is that correct?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

There is no such language in the legislation.

SENATOR FRANTZ:

Thank you. That answers that question. I'm whole heartily in support of this.

Thank you, Mr. President.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further on the bill as amended?

Senator McDonald.

SENATOR MCDONALD:

Mr. President, if there's no objection, might this item be placed on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

Mr. Clerk --

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Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, if the Clerk might call the items on the second Consent Calendar and then if we might have a vote on that Consent Calendar.

THE CHAIR:

Mr. Clerk, please call the Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the second Consent Calendar. Will all Senators please return to the chamber. An immediate roll call has been ordered in the Senate on the second Consent Calendar. Will all Senators please return to the chamber.

Mr. President, those items are placed on the second Consent Calendar begin on Calendar page 22, Calendar Number 204, Substitute for Senate Bill 1009;

Calendar page 28, Calendar Number 358, Senate Bill 1078;

Calendar page 33, Calendar Number 473, Senate Bill 1160;

And Calendar 492, Substitute for Senate Bill 966.

Mr. President, that completes those items placed on the second Consent Calendar.

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THE CHAIR:

Please call for the Consent Calendar. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the chamber. The Senate is now voting by roll call on the second Consent Calendar. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed.

THE CLERK:

The motion is on adoption of Consent Calendar Number 2

Total Number Voting	35
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

Consent Calendar Number 2 passes.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

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Mr. President, we move for suspension for immediate transmittal to the House of Representatives of any additional items voted on that require action by that chamber.

THE CHAIR:

Motion's on the floor for suspension of the rules to send items down to the House. Seeing no objection, so ordered, sir.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President.

If the Clerk might now call as the next item for order of the day, Calendar page 17, Calendar 661, House Bill Number 6578.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Turn to Calendar page 17, matter marked "Order of the Day," Calendar Number 661, File Number 726, House Bill Number 6578, AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY, favorable report from the Committee Judiciary. Clerk is in possession of amendments.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

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Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

On acceptance and adoption of the bill, sir, would you like to discuss it further?

SENATOR MCDONALD:

Yes, Mr. President, I would. Mr. President, this legislation comes to us from the House and presents the first opportunity for this chamber in quite some time to debate an issue of substantial public importance.

Under this legislation, Mr. President, the crime of cap -- capital felony would be replaced with a name of "murder with special circumstances," Mr. President. And it is important to note that under this proposal the modification of our criminal law would only be prospective in nature and would apply to crimes only committed on or after the effective date of this legislation.

Mr. President, there are legislative moments that say much about we, as a people, and as a state. And today I ask this chamber to join the House and 14 other states that have abolished the death penalty as a form of punishment for the most heinous crimes in

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our society. And I do that, Mr. President, in large measure because this penalty has proven to be unworkable in our law.

Mr. President, I'm certain many members of the circle will talk about issues that are personal, issues that are profoundly held, issues of moral and religious significance, but, as the chairman of the Senate Judiciary Committee, I intend to keep my remarks to the criminal just -- justice aspects of this legislation and of the existing crime of -- of the existence penalty of death in our state.

Mr. President, as I indicated, the death penalty has been an unworkable penalty in the State of Connecticut and, indeed, in many states for decades. Connecticut has had a decade's long experience with the death penalty, and it is a failed experience. It is a failed enterprise, and it has caused tremendous angst for the victims of these murders -- I should say their relatives. And, Mr. President, it is failed because in almost the 50 years we have not -- in the last 50 years, the State of Connecticut has executed only one person as a result of a sentence of death. And, of course, that one person is Michael Ross who essentially had to invite the execution by abandoning all appeals, and, in many respects, in my opinion, at

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least, he was drawing attention to himself and feeding a narcissistic need to have the State of Connecticut obsess about him and not about his victim.

Mr. President, in 1994, when John Rowland was running for the office of governor, one of his main campaign themes was a workable death penalty. And, at that time, there were five men on death row in Connecticut, including Michael Ross. After John Rowland became Governor Rowland, he pressed the legislature to make our death penalty more workable, and he was successful in pressing forward legislation to make it easier to impose a sentence of death. And, as, then, Representative -- now a judge -- Radcliff said in a news account at the time, we will finally have a workable death penalty in this state. At that time, Representative Lawlor, Representative Tulisano and officials from the Chief State's Attorney office opposed those changes and argued that adopting them would tie up cases in our courts for years. Then Chief State's Attorney Bailey disagreed with his prosecutors, at the time, and said that reforms would cut appeals of death penalty cases to three and a half years.

Fourteen years later, Mr. President, they are still litigating that workable death penalty, and



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nobody who has been convicted under it is even close to receiving that penalty. Those reforms did not make our death penalty more workable, in fact, the exception of Michael Ross who invited his execution; those four other men are still on death row.

I agree with one thing that John Rowland said in April of 1995, Let's not live under the delusion that we have a workable death penalty in this state. He proposed that his changes would make it workable. It has not become workable. And, unfortunately, Mr. President, the people who have borne the brunt of that failure are the families of murder victims. Those families have to relive the horror of those murders every time there's a court hearing, every time there's a court appearance, every time a news reporter inquires, again, about the progress of a case, and every delay is documented, and every time the gory details are relived.

Since that time, we've moved from five to ten men on death row, and one of those ten has been under a sentence of death for more than 20 years. One might ask, is that because of anything in our statutes? And the answer is an undebe -- undeniable no. It is a constitutional right of any defendant to appeal a sentence of death, and each and every one of the

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individuals on death row are still litigating their original appeal. That is not a statutory problem. It is a constitutional issue that our courts are charged with fulfilling. And I propose, Mr. President, that because we have that as an available penalty in our law, we have provided a statutory framework that gives false expectations to those families.

In my opinion, Mr. President, death in many instances is too kind a penalty for some of these defendants. In my opinion, it is a harsher punishment to sentence an individual to life in prison without possibility of release. To know that every day when you wake up, you will still be in an 8-by-10 cell. You will still not have direct sunlight in your life. You will still have the obligation to consider the harm and pain that you have inflicted on your victims. We have 46 such individuals in the State of Connecticut right now who are serving life in prison without possibility of release sentences, many of them going back two decades. You don't know their names. They have been put into prisons and told that is where you will die.

The names we know are those who still demand our attention because they are under a sentence of death. In my opinion, Mr. President, and based on the facts

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that we have in our history here in Connecticut, a sentence of life in prison without possibility of release is quicker, more certain and definite. Living in an 8-by-10 cell is not an easy life. In fact, it is a hard life.

If you have not had an opportunity -- I know some members of the circle have had an opportunity -- to see what a cell at Northern Correctional Facility looks like, I urge you to do that. Living in 80-square feet, waiting for your heart to stop that is what this sentence is for 46 men in our state.

Mr. President, the death penalty is not a deterrent. People may support the death penalty because of a sense of revenge or vengeance or retribution, but it is certainly not a deterrent. States with the death penalty have a 40 percent higher murder rate than states without it, according to the most recent statistics. And even in states that are considered to be the death penalty mills of our country, in Texas and Louisiana, their murder rate is much higher than ours even here in Connecticut.

In Connecticut, we have about three murders per 100,000 residents. In Texas, which has had 423 executions in the last 30 or so years, their murder rate is six per 100,000, double the State of

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Connecticut's murder rate. In Louisiana it's four times higher than Connecticut, 14 murders per 100,000. And, in fact, Mr. President, in six of the ten states with the lowest murder rate, there is no death penalty. They are the -- among the safest state in our nation.

Mr. President, there are certainly disparities that exist in our criminal justice system. And that is certainly also the case in the administration of the death penalty. In fact, those disparities resulted in this State of Illinois suspending the use of the death penalty. In New Mexico and New Jersey, it was repealed as a penalty. Those disparities cross racial lines, economic lines and, certainly, geographic lines.

Even here in Connecticut, as I indicated, there are ten individuals who were certainly -- the cert -- still serving and waiting for their sentence of death. Five of those ten were prosecuted in Waterbury. It's not like murders weren't happening in the rest of Connecticut. We've had 4600 murders since the death penalty was restored in Connecticut and only 13 people have ever been sentenced to death, most of them in Waterbury.

There's an interesting article in the paper today

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by a columnist who talked about how attention is brought -- perhaps more attention is brought to some victims of horrible crimes, but there are other nameless, faceless victims who don't receive that same attention. It's not as if their murders were more kind. There is no gentle murder. They're all brutal. By definition, it is murder.

Mr. President, humans are not without fallibility. We all know that and with that fallibility comes error and mistake. While it wasn't in the context of a death case, we know that it is true with Mr. Tillman who spent 18 years in prison for a sentence -- for a crime he did not commit. More recently -- and it hasn't gotten as much attention as Mr. Tillman's case, Miguel Roman served 20 years in prison of a 60-year sentence for a murder he did not commit, a murder of a pregnant woman. And yet 20 years later, we learned he was not the criminal. It was a mistake. It wasn't intentional. It was a mistake. And, yet, just as easily, Miguel Roman could have been on death row and could have been executed using the full force and power of the State of Connecticut.

Mr. President, those mistakes have had tragic consequences in other parts of our country.

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Nationally, since 1973, 130 prisoners on death row have been exonerated. And the average time spent by those individuals on death row was nine and a half years. Mistakes happen. And if those mistakes were found to have happened with somebody who was sentenced to life in prison without possibility of release, we could correct that mistake. There is, of course, no turning back when the State has taken a life. Errors happen in investigations. Errors happen in witness identifications. Errors happen throughout our criminal justice system.

Mr. President, there are also other reasons, not nearly as deserving of our attention but, nevertheless real, the costs associated with administering the death penalty. It costs the state taxpayers millions of dollars to prosecute, convict and execute any individual even if we were actually got to that part. Even with Michael Ross inviting it, it cost the State of Connecticut \$316,000 to strap him to a table on that day. And, yet, the cost of keeping somebody incarcerated in that 8-by-10 cell is approximately \$90,000 a year.

Mr. President, the individuals who are the most heinous criminals in our state need to be separated from the rest of society forever. And I don't think

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there is one member of this circle -- one member of this General Assembly who would say that anybody who has committed a vicious crime -- the vicious heinous crime of murder should be put away for as long as the law permits. But that doesn't mean that we have to continue to maintain a death penalty that is unworkable and that, in many instances, is extraordinary cruel to the -- to the families of the victims who wait decades and decades for closure that is never going to come.

Thank you Mr. President.

THE CHAIR:

Thank you, sir.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, in speaking in support of the bill, I certainly would want to thank Senator McDonald and Representative Lawlor for bringing it forward for what I think will be one of the -- the most important and substantive debates of -- of our session.

Mr. President, as Senator McDonald indicated, the problem with our current death penalty statute and the problem in every state that does still have the option for the death penalty is that it gives the state the

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opportunity to impose an irreversible penalty despite the fact that our system is fallible and is subject to error.

There are many reasons, many reasons that our system is imperfect and should not have the absolute power to take a life and to commit a possible error beyond redemption. And those imperfections fall into a couple of categories. First of all, there are good-faith mistakes. Witnesses can be wrong. Even eyewitnesses can be wrong. Even victims can be wrong as we saw in the Tillman case. That there's a conventional wisdom that a victim is necessarily going to be a more acutely aware witness. That is not necessarily the case. Witness error, good-faith error, people who have been traumatized by an event are often subject to -- to error. So we have the possibility of a mistaken witness. A mistaken -- mistaken about what was heard, about what was seen. And then we have the other subjective factor of possible unequal skill and trial advocacy. Perhaps, the prosecutor is a much more compelling and charismatic figure in the courtroom than the defense attorney. And these are subjective factors that are very hard to quantify.

Apart from that, we have the deliberate



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misconduct that often can happen. And, that is, there may be perjury involved. There may be a witness who deliberately makes a -- a misstatement that he knows not to be true or makes an accusation that he knows not to be true. There could be prosecutorial misconduct, and that is the suppression of evidence that might have been exculpatory. It might have been helpful to the defendant had it been revealed earlier. Or there may be juried bias. There may be bias not revealed in the voir dire process, not revealed in the questioning of perspective jurors.

Now some would argue that these kinds of errors will often come to light in the appellate process that can be a basis for -- for an appeal to deal with issues of imperfections in the trial. But the reality, Mr. President, is that these are the kinds of flaws that are unlikely to come to light in the appellate process. And if they are revealed, at all, it may come about years and years later by accident because successful appeals are generally founded upon reversible errors of law by the presiding trial judge and not in second guessing the finding of fact and the credibility of witnesses that the juries have been able to sift through and make judgments on. And the reason for that, Mr. President, is that appellate

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courts are very acutely aware that they do not have the opportunity to evaluate the subjective demeanor of evidence that is presented at a trial.

The appellate court is not able to see the actual witness testify, to hear the tone of voice, to see whether someone was staring directly and earnestly ahead in a compelling way or, perhaps, was looking shifty and uncomfortable and undermining his own credibility by his very posture and the tone of his voice. All of these factors are sifted out, because what the appellate court has to deal with is only the written transcript of the trial and the briefs filed by counsel.

The difference between an appellate proceeding and a trial proceeding, Mr. President, is analogous to the difference between seeing a play performed by live performers or reading the text of a play separately. The appellate court is reading the text. They're not seeing the performance. There is a real difference. And for that reason because appellate courts are very much aware that they are at one significant remove from the reality and the texture of a trial, they give great deference to findings of fact by juries. They will say -- and anyone who has read appellate opinions will read over and over again, that we defer to the

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findings of fact. The jurors have the right to decide to believe one witness and not another witness, even if ten witnesses testify one way and one witness testifies the other way, as long as there is a credible basis in the record for the jury to believe that witness, often -- and most of the time that finding will not be disturbed by the appellate court unless, again, there is some identifiable clear error in the transcript. And, as I said, these are the kinds of errors that can be fatal but may not come to light and may not be discoverable or identifiable in the appellate process.

Given that reality, Mr. President, it is all the more dangerous to have a system when -- where we give the absolute power to take a life. What we should do, Mr. President, is to recognize with a greater degree of humility that a system is subject to error; and, therefore, we should be careful about giving it absolute power.

As Senator McDonald mentioned, our death penalty statute was changed a number of years ago. The debate over the death penalty goes back to the early 1970s when the US Supreme Court in the -- in the case of *Fuhrman* versus Georgia struck down the death penalty statute that existed in Georgia, at that time, was

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similar to many death penalty statutes in other states around the country and found that the death penalty, as imposed in many cases, was arbitrary without sufficient standards, without sufficient due process.

The State of Georgia then revised its death penalty statute, and its new death penalty statute was upheld four years later in the case of Gregg versus Georgia. And, in that case, Mr. President, the new Georgia statute took the guidance of the Supreme Court in the Furman case and created the system of sifting mitigating and aggravating factors, having a separate proceeding for determining whether those factors exist and also identifying several different kinds of categories where an aggravating factor would have to be in place to specify the kind of homicide that could be eligible for the death penalty.

Connecticut statute was revised accordingly, and as Senator McDonald said, a number of years later advocates of the death penalty in Connecticut said that the Connecticut death penalty statute created too high a burden, made it too difficult to impose the death penalty because our original statute provided that if a mitigating factor were to be established that would take the case out of the possibility of the death penalty even if aggravating factors existed.

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The revision that happened some 15 years ago, as Senator McDonald said, provided for a -- a weighing and balancing of mitigating and aggravating factors. And if the mitigating factors predominate, the case would result in life, not death. If the aggravating factors predominated, the case could result in the imposition of the death penalty.

What that did, arguably, Mr. President, is to introduce another element of subjectivity into our death penalty statute, whereby a slight tilting of the balance, one way, would indicate death; another way would indicate life. So that the very same set of facts and circumstances, perhaps, in one case with one set of advocates arguing the case for the State or for the defense, and one jury might find one way on exactly the same circumstances. Another set of -- of jurors might find another way. So I think we have reintroduced some element of subjectivity into our death penalty statute since that revision in a matter of life and death.

So, Mr. President, it is -- it is an extraordinary opportunity we have here today to join with the House of Representatives and to join with the 15 states that have taken this approach in recognizing that -- that government that cannot guarantee the

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absolute accuracy of its proceedings should not have -- or should not take to itself the power of taking a human life.

In this way, Mr. President, it is interesting that we often have a debate in the -- in the legislature about the scope and extent of governmental power. We have many who argue that governmental -- governmental power should be expansive; that government has the power to do a great deal of good; that government should be trusted in various cases; that the history of -- of governmental advocacy going back to the New Deal is a -- is history of -- of expansive belief in a well-organized, well-managed government initiative can do great good in society. The other side of the -- the philosophical debate, often the conservative side, is that government should -- cannot really be trusted to do well. Government is more often to make mistakes. Government is more often to overreach. Government is more often to have a stifling effect. And it -- it seems to me extraordinary that -- that many of the people who make that argument in many contexts create an exception for the death penalty and, in some cases, are willing then to grant a power to government in this case that when -- when they are very reluctant to grant extensive

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government power in other circumstances.

So, Mr. President, I think that the best measure for us today would be to act with humility and to pass this bill in concurrence with the House of Representatives.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. On August 29, 1996, when he was accepting the Democratic nomination to run for President of the United States, William Jefferson Clinton stated regarding abortion that it should not only be safe and legal, it should also be rare.

Now, I would state that while I tend to be much more pro life as opposed to pro choice -- and we could debate here on the floor of the Senate whether life begins at conception or not -- I do believe it's fair to state that when we are talking about the death penalty in the State of Connecticut, it is right to draw an analogy regarding termination of life. And I'm going to frame my arguments around that quote because here, in the State of Connecticut, I oppose

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this bill. I believe in the statutory framework that we have right now. And I believe, in many respects, the death penalty statutes that we have on the books right now allow our state to be more safe. I believe the construct that we have is legal. And, fundamentally, I believe that the utilization of the death penalty in the State of Connecticut should be rare.

This morning I started my day at nine o'clock on the high school football field in Windsor Locks for Military Appreciation Day. What a beautiful day. High school band was there. Dignitaries from the Town of Windsor Locks, the First Selectmen, Board of Education this was all organized by the Superintendent. They deserve an awful lot of credit. And we were there to honor our military.

And, as you are all aware here in the circle, Memorial Day is right around the corner. It's a Thursday towards the end of May, and this weekend we will be marching in parades. We will be saluting the flag. We will be watching ceremonies as we honor those men and women who put on the uniform to protect our nation.

And there have been times, I dare say, all of us would agree in the history of this wonderful United



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States of America where we depended upon those men and women fighting in wars to protect our lives and liberties. Nobody likes war; nobody wants war. Some wars we feel are good, and some wars we feel are bad. But, in the history of this nation, men and women have had to take up arms and fight for our freedoms and the safety of ourselves and those whom we love. And, in pitched battles, whether it's North Africa, whether it's Europe, whether it's somewhere in Asia, whether it's defending a naval base at Pearl Harbor in Hawaii, men and women have lost their lives.

Now, luckily here in the year 2009, we can speak freely and debate this bill freely because we still have all of those freedoms that those folks fought and died for in protecting. Well, the first thing I want to call to your attention regarding the notion of safety is that sometimes there is a threat to our health and safety of ourselves and those whom we love by aggressors that we have no choice but to fight back. And I would posit as a first argument that while everyone of us here in the circle, I believe would acknowledge, that there have been wars where lives have had to be taken of enemy aggressors to protect us that when there are individuals in the State of Connecticut as antisocial and horrific and

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diabolical such that they pose such a threat or have exhibited such a tendency towards violence against those whom we love and ourselves, that the argument is the same.

Why is it that a national boundary makes all the difference? Why is it a position of geography makes a difference, philosophically? We are going to praise, justifiably, those men and women who fought in our wars.

The good war, World War II -- world War II; you want to pick a war. You want to fight over good wars and bad wars. Let's pick World War II. Let's call them out: Adolf Hitler, Mussolini, Hirohito, blatant aggressors, not only against the United States of America but against all free-thinking peoples. And when we fought those wars, we had to fight to win because they posed a threat to our society.

I am suggesting to you that upon occasion we run into people, they may not have armies but they certainly have weapons and they may not kill hundreds or thousands, thank God, although 9/11, but they are aggressively attacking our way of life here in the State of Connecticut.

So, again, regarding my first characterization, regarding our debate on the death penalty, regarding

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safety, I would say, please think about the analogy between wars that we fight abroad and the war to keep Connecticut safe for those whom we love. And, unfortunately, in some parts of our state, it is a battleground. But, more often than not, we're talking about isolated incidents that one couldn't even see coming. And for those folks who hold life with so little respect, I believe that the death penalty is appropriate.

Let's look at another aspect of safety here in the State of Connecticut. It has been argued time and time again that having a death penalty on the books does nothing to keep us safer. Logic would dictate, at the outset, that that is incorrect. If someone poses a risk and they are put to death, that risk is gone. That risk is gone. You put them in a cell, and as Senator McDonald indicated, some of us have walked death row, and I have walked death row more times than once. That's for certain, and -- in just the last year and seen those ten cells where these inmates are watching television, filing their appeals after being found guilty of some of the most heinous crimes one could ever imagine, awaiting a death penalty that seems to never arrive -- but I will get to that point in a moment. But if, and, I believe, when those

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individuals are eventually executed by the very nature of an execution, that risk is now gone.

Let me pose this example to you. If someone came here into the middle this circle, some sociopathic mad murderer and pointed a gun at each one of us and said I'm going to give you two chances -- two choices, life without possibility of release or death right now. I think that none of us would choose death. The hugest instinct that we have as human beings is the instinct to stay alive. People do enormous things to stay alive. But, in a purely selfish assessment, if you are alive you live to fight another day.

Maybe the police will come and arrest that homicidal maniac, maybe the roof will fall in, maybe someone will discover me a week from now, a year from now, ten years from now. But if the choice is made, life without possibility of release or death, I don't know anybody choosing death. And why is that? Because life without possibility of release affords, at least, a hair's breadth of an opportunity to get free, to be released, to be pardoned. And, indeed, part of the argument in opposition to this bill is the notion that the public has that this is just the first step along a path of leniency because if our state legislature can throw out the death penalty and impose

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life without possibility of release then what's next? What's next? Because to point to ten inmates, the oldest of which is in his 60s, and to look at him puttering around because he's the death row librarian putting books on a cart and giving those books to the other nine inmates on death row.

But, given the fact that there's no real threat to health, these individuals could live to 70 or 80 or 90. And it is not unfathomable to think that the legislature down the road, years from now, could say there's no real threat here, we're going to let these people go. That is a real, real possibility. So the notion that we're going to do this and that anybody would choose life without possibility of parole. It's such a terrible, terrible thing.

In fact, I was talking to somebody today and they said there are some poor people living out under bridges homeless that have it way tougher than the ten inmates on death row. And I'm going to tell you that is the exact God's honest truth. It's not like there's freezing temperatures here. Yeah, none of us would want to be in a cell, but none of us would want to be homeless in the middle of winter underneath a bridge either. So the other aspect of safety -- and it may sound brutal and insensitive, but I don't mean

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it to be that way, but when a life is terminated, that is the end of the threat. And it would be disingenuous for anyone to state that they haven't -- if they didn't think it themselves that they haven't been around people that in some kind of shootout with police officers and someone has just gone through a home and killed a bunch of people or gone through a school and killed a bunch of people, whether it's a public high school or a university, and at the end of the day, that person either killed themselves or gets killed by the police that they're not happy. And it's they're happy because there's a blood lust, and it's not that they're happy because they're, sort of, mean or horrible people or conservative. No, no, no, no. They're happy because, in their heart of hearts, the threat is gone. That's the end of that crazy person. That threat is over, and there's finality. But that person was a real threat to our health, safety and well-being. Why play out the appeals game? God knows you might get out. One of these might stick. That habeas maybe granted. The State Supreme Court may overturn that decision. The United States Supreme Court may overturn that decision, and I'm out of here. And somebody who's been through this process, I dare say, may turn their lives around. But my guess is

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that there's as much, if not more of a chance that they will continue to embark on a life of crime at some point in the future. And how sad it is, how sad it is that we see and hear about these stories all the time. So I would say that that aspect of safety is borne out by our common sense.

Does the death penalty act as a deterrent? There are studies that say it's unquantifiable, and it is nearly impossible to prove a negative. I can't reach into anybody's minds here in the circle and determine whether some negative impact that may befall them because they take some action will deter them from taking that action. I just can't. I can't. We can draw certain parallels to psychological and psychiatric behavior. We all recall in college Pavlov's Dog. Right? Pavlov's dog. Wanted to get fed, ring a bell? You ring the bell, all of a sudden you start salivating looking for the food because the bell was always associated with the food and the behavior of the dog, all of the sudden jumped over, such that, the action of the bell caused the salivation even when the food was no longer there.

Actions beget reactions. It's Newtonian. And, in many respects, our behavior whether one studies sociology or psychology or just studies how we behave

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in this building. If you go out there and you lie about a bill, you lose your reputation and you can't get any business done here. That is a incentive not to lie. If you could lie in this building left, right and center and there was no negative repercussion, I'm not saying everybody would turn into a liar but having that impediment removed might cause more people to be a little liberal with the truth. I'm just guessing. It's human behavior.

I fundamentally believe we're fallen creatures. I don't think that were born perfect by any stretch of imagination. It is a lifelong quest to try to be a good human being. The first things that we exhibit when we're children are things, like selfishness. And we don't look at it as sinful or anything like that but what we want is what we want. And as we grow older, hopefully, we embody things, like sharing and compassion and all those other virtues. So to that extent can't we possibly imagine that having a death penalty on the books is a deterrent to someone? Is a deterrent to someone?

We have penalties on the books regarding suicide. We do everything we can to stop people from taking their own lives. I'd like to think that we do that because we feel we have an impact on them such that



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they won't do that. We view that as so negative. I'd like to believe that all of our criminal laws we have on the books are there, in part, as a sense of justice and retribution and punishment but also, in part, towards deterrence -- towards deterrence. Because I also believe people -- if you can find the right angle into their soul then you can turn them into the right path. People can be redeemed, but the process of redemption has to have with it consequences such that the worst behavior has to have consequences, too. And fundamentally, philosophically, at least when it comes to deterrents and issues regarding crime and punishment, I don't necessary believe that the death penalty has no vigor. I think it has a place. I certainly do believe it has a place.

These statistics that were quoted by Senator McDonald, I believe, are somewhat fallacious. I don't see the necessary correlation between incidences of murder or violent crime and whether one has a death penalty on the books or not. Actually, I don't even see the correlation between that time the death penalty is imposed on an individual and incidences of violent crime because it's leaving out a critical component in the analysis. And let's use Louisiana and Texas because we love kicking those states around.

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Let's use those states as a place where death penalty is -- seems to be utilized more often than any other place in the United States. I'm thinking Florida's probably in there, too. I don't know the critical piece of information that would tell me whether they are fundamentally more violent states at the beginning or not.

There are certain crimes that may be more prevalent in Connecticut, less so in other places. There may be more tendency towards violence. I don't know, maybe it's because it's warmer temperatures. Who's done that study? New England is cold in the winter. You want to stay indoors where it's warm, less likely you're going to bump into other individuals, less likely you're going to get on some other individual's bad side, less likely there'll be confrontation, less likely that confrontational will ratchet up, less likely there'll be murder. I don't know. If I was trying to get my master's thesis or PhD that sounds like a fruitful territory to do some research on. That could explain a lot. Warmer climates -- may be in certain climes, people are out more, hot and bothered, fights escalate, more violence. I don't know. I'm not saying that's the truth. I'm not saying that's not the truth. I'm

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saying we have got to be skeptical of anybody that uses statistics to prove that there's a correlation or not a correlation between the deterrent effect of the death penalty or not.

I would go back to my other argument regarding the mad killer that's here in the middle of the circle pointing a gun. Nobody's picking death. Nobody's picking that. And, in fact, we don't like to talk about Michael Ross but this notion that were elevating individuals on death row and making them superstars and celebrities. Come on, that's ridiculous. Michael Ross wanted to be put to death and there are folks so fundamentally opposed to the death penalty in the state, they fought tooth and nail to fight it. They fought tooth and nail to fight it.

I believe the death penalty when it comes to the issue of safety that you have got to believe that if someone is executed, the risk they pose to our society is gone; that we see that in the greater world when we are constrained to go to war, it makes us a safer country; that there are individuals that pose such a great threat to us even in our neighborhoods that, occasionally, the death penalty needs to be utilized. And sometimes those threats come all the way to our country, as I indicated before 9/11.

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But let's just take a quick look at as to the safety aspects, as it pertains to the defendant. Senator Looney brought out the notion that -- and Senator McDonald does well, that there are incidents where individuals in other states have been put to death that have been later exonerated, proved innocent. That's a good argument, if you're debating this in another state, but we're in Connecticut. I've walked death row. I don't like to make eye contact with those individuals. It still bothers me because they look just like you and I, normal, regular friendly folks. And then if you take a step back and you realize what they did to another human being, it creeps me out. These are really, really bad people, really bad.

It's real hard to get on death row in Connecticut. I got to be honest. It's hard to go to prison in Connecticut. That's my belief, tough state. We're a forgiving state, tons and tons of programs that will get you out of the system, and if you have any wherewithal whatsoever, you could turn your life around, but we will save that debate for another day. But, regarding the inmates themselves, no one here, I believe, this evening will posit that any of these individuals are innocent. We may not have the best

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system in the country, but, boy, we've got a good system. Maybe it is the best.

And I'm going to go through it a little bit stage by stage to show you how many safety levels we have. But, once you hit -- once you hit death row in Connecticut, it's pretty darn clear to me that you have committed a horrific offense and you belong on death row. And the notion that I hear in arguments, that other people have committed violent crimes and how come they're not on death row. You know, when we debated Three Strikes, I heard time and time and time again we need to defer to the wisdom of the courts. Every case is unique. Facts are different in every scenario. We'll hear some amendments regarding that.

But could it be that regarding cases of capital felony where a person is charged with a crime, that should they be found guilty and that all the other parameters are met; that they will face the death penalty; that as much care and precision and sensitivity is utilized by the judicial system in those matters such that you can't cookie cutter these. That's what I believe. I mean it's the same old ruse, same old tricks. This doesn't work because it's not been applied to everyone. Then when you want to have some kind of stiff sentence applied to everyone, well,

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we can do that and because we need to give our judges latitude to make precise decisions. You can't have it both ways. You just can't have it both ways.

So the argument that somehow someone is sitting on death row who's innocent, set that aside, set that aside in Connecticut. In Connecticut, even if you want to be put to death we're going to fight you on that. That -- that's our history. We're going to fight you on that. In fact, the attorney -- and I know T.R. Paulding and what a great guy -- the attorney that fights for you to try to get your wishes done might even get in trouble. That is so unfair because that attorney's working for his or her clients.

What kind of a construct do we have to help protect the defendant? Well, first of all for those folks who may be watching at home who might not be familiar with our capital fel -- felony statutes, we have five criteria that'll automatically bar imposition of the death penalty. So if you're brought up and the State's Attorney charges you with a capital felony, and, for the moment, let's assume that you meet the criteria to fit into that capital felony, the first thing I want to talk about is -- and I'll get to those other criteria -- but the first thing I want to

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talk about is, is that there are five bars that'll just immediately knock you out: If you're under the age of 18. Under the age of 18 in Connecticut, nope, that's an automatic bar; the legislative research I have is mentally retarded. I'd like to call it developmentally disabled but that's an assessment. Mental capacity or the ability to conform conduct to the requirements of the law, significantly impaired, that knocks you out. Guilty only as an accessory; or the fifth criteria, could not have reasonably foreseen the consequences of his or her action.

So I want everyone to know that in our construct that we already have in the State of Connecticut, there are five bars. And if the trier determines that any of those bars are there, you're never going to get the death penalty imposed. It can't happen. It can't happen in the State of Connecticut. What if some of the assessment that might go through the head of the state's attorney as to whether to charge an individual with capital felony, well, you're going to see -- and I'm sure it'll come out in the debate later on this evening that there are a set -- there is a set of criteria that one can find both in Connecticut General Statute 53(a)-46(a), sub I, which are the enumeration of the aggravating factors, but also one will find

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them in Connecticut General Statute 53(a)-54(b), which is what the initial criteria to charge someone with capital felony. And that first, sort of, umbrella area addresses our peace officers, our police officers. It's broadly drafted to -- include state marshals, marshals performing their normal duties, other law enforcement officers, Department of Correction personnel, including -- and also firefighters, and there's -- and there's many others.

If you murdered one of those folks, and, again, this is murder with knowledge. Not only is that one of the criteria that could allow state's attorney to charge one with capital felony, but it's also an aggravating factor. And for those folks why -- why is capital -- capita, head. It's easy to remember, per capita, per head, per person or to decapitate. It's all the same root. It's all the same root. But if you didn't murder one of those folks, what else could bring you in? Murder for pay or hire someone for the murder, previous convictions, murders while sentenced to life imprisonment, murders a kidnapped person and is the kidnapper, murders while committing first degree assault, murders two or more people at the same time and murders a person under the age of 16. Those are the criteria.



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And what's really sad is that those ten individuals on death row that we have in the State of Connecticut, they don't fit into one are two of these categories. They -- they got most of these categories covered. How sad. I have a 13-year-old son, love him dearly, love my children, my wife, but Nathaniel's 13. I mean one of these guys on death row, Rizzo, you know him, right? He's the guy that lured in that thirteen 13-year-old boy to the backyard and smashed his head in 13 times. Yeah, yeah. I'm guessing that that fell under the statute regarding murders of person under age 16. Is it uncivilized that an individual that does something like that faces death in the State of Connecticut? I would posit that it is completely civilized. That we've made a determination that anybody who does an act like that if they meet the other criteria should face death.

At some point, we have to state that for the safety of our loved ones that there are certain lines that can't be crossed. So, on the issue of safety for the defendant, we've got to the five bars to conviction and we've got several specific criteria where an individual charged has got to fall under. And if you don't fall under those criteria, you can't even possibly face the death penalty in the State of

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Connecticut.

The last part that I want to get to has to do with the area that Senator Looney spoke about and that was the balancing of the mitigating factor and the aggravating factors. And the arguments made by those folks who are against the death penalty say, well, these are highly subjective. They add a sense of uncertainty to the process. And I would argue that this criteria was placed in our statutory construct exactly so that there could be some element of subjectivity such that we could get the imposition of the death penalty in the most precise fashion possible. And so it allows defense counsel to raise mitigating factors, mitigating factors. Tough, tough, tough, tough growing up for that kid, father beat him all the time, had no chance in life, was abused, was bullied. There's some kind of problem, doesn't rise to the level of a psychiatric defense or psychological defense, but there's some kind of lack of -- marbles aren't right. Anything and everything defense counsel can bring to the table, as far as a mitigating factor, throw it out there and see what happens. But, on balance, we also have specifically delineated aggravating factors that have got to be put into the balance, as well.

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And without going to all the details, committed the offense while committing or attempting to commit a felony while fleeing from the commission of or attempt to commit a felony, had been convicted of at least two state or federal offenses prior to the offense, each of which was committed on different occasions involving serious bodily injury, committed the offense in a especially heinous, cruel or depraved manner, procured someone else to commit the offense, committed the offense in return for payment themselves, committed the offense with an assault weapon, and, again, that catch-all provision that acts as an aggravating factor, committed the offense against a law enforcement officer, firefighter and other individuals in our society whose job it is to put their lives on the line to keep the safe.

People are not going into those lines of work to make a ton of money. Police officers, people that work for probation, parole, inspectors, investigators, most of those men and women are doing it because they have a strong sense of justice. They want to protect us. And we owe it to them such that if someone feels that it's open season on those folks, there is a greater possibility -- there's the possibility of a death sentence not just life without the possibility

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of release.

And that's going to bring me to this other, sort of, nuance point -- and we'll get to this with the many amendments that will come forward in the hours to come. But, when it comes to my corrections officers the men and women that serve in the six correctional facilities in North Central Connecticut, and I've got Northern. I've got the super max in Somers where I have death row inmates. And, by the way, they may not get out an awful lot during the day, but they do get out. They do get out of those cells.

And what I am saying to you is, if you're in prison under a sentence of life without possibility of release, and you kill one of those corrections officers. What's the downside? Another sentence of life without the possibility of release? I would dare say that if you're talking about a lack of deterrence that would be a lack of deterrence. To my mind, no justice, there's no penalty and all. There's no penalty at all.

It's like when you hear about someone committing a crime and the judge offers a sentence of concurrent, as opposed to consecutive time. And you take a step back and you go, five years on three different pleas but to be served concurrently. And you go to someone

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and you go, what does that add up to? It's five years. It's five years. Because it's concurrent not consecutively.

Well, if all of a sudden the norm is going to be life without possibility of release, I'd like to know what's that big stick going to be to help keep law and order in our correctional facilities? They'll be an amendment on that, but I guess I'm throwing that out there for consideration.

So the last aspect of safety, as it now pertains to the accused, is the balancing test. And I would agree that when we went through our reforms, and I was here. I was here in the legislature back '93, '94, '95, the beginning of the Rowland administration. We thought we could make a more usable death penalty, and we strove mightily to reform our statutes, but, essentially, at the end of the day, my belief is, is that we created more grounds for appeals, more gray areas that had to be figured out down the road.

Safe, legal and rare. Remember my first quote, from William Jefferson Clinton when he was talking about abortion, termination of life. Termination of life, death penalty. Legal, legal.

Let me get to legal now. We've talked about what goes into the initial charge. We've talked about the

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balancing and the bars. What happens when an individual is finally adjudged guilty of a capital felony? Ladies and gentlemen, we give so many bites at the apple for these defendants. It should not surprise anyone of us that we haven't executed anybody but Michael Ross since we had the execution of Mad Dog Taborsky back in the early 1960s. You remember him, early 1960s, nice guy. He would prey upon small package stores in rural Connecticut. And he would go there around closing time, nine, ten o'clock back then. He'd go in there. God forbid, you heard the little bell ringing by the door in 1950s. If it was Mr. Taborsky, everybody died. Everybody died. Get on your knees, put your head down and he put gun behind everybody's head and shot them execution style, and that's how he went around Connecticut robbing package stores. I'm not one to cause people to get names but he got the name, Mad Dog Taborsky, last person executed prior to Michael Ross.

Do know how afraid the State of Connecticut was back then? We changed the hours that package stores could be opened. Forget about the Sunday sales for a moment, we'll set that aside for another day. But we didn't have these kind of opened only till eight o'clock laws until he went on his rampage. And it

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took a long time to change those laws. Because those small mom-and-pop package stores they were afraid. They were afraid that somebody else would do something like that. You mean to tell me that wasn't justice? God forbid that was your mom or dad or grandma or grandpa. God forbid somebody went out to get a six pack of beer and that's what happened to them.

This is what happens in Connecticut now. After we go through this entire determination, are they guilty or not guilty of the capital felony offense and there's a special verdict assessment done and the entire balancing and everything else, there's an automatic appeal to the Connecticut Supreme Court. And they go through a checklist of things, making sure that it wasn't a product of passion or prejudice or any other arbitrary factors. They have to determine if the evidence supports the findings of an aggravating factor, balancing and all of that. And if that direct appeal that as of right appeal to the State Supreme Court fails, then, they can petition the United States Supreme Court. And if that fails, the defendant could then file a state habeas corpus petition. And, last I checked, we have no limitation on habeas corpus petitions in the State of Connecticut. Typically, they're for ineffective

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assistance of counsel or new evidence has come up and I'm innocent.

If all of those don't work, if the habeuses fail, my understanding is -- and, as we precede throughout the evening, I'll be happy to be corrected if I'm wrong -- those decisions, the habeas, can be appealed to the State Supreme Court. And a denial in the State Supreme Court can then be appealed to the United States Supreme Court. See where I am going with this? See where I'm going? By the way, when you exhaust all of those, you can do a habeas petition in the federal courts. Now, I see Sue Storey's here watching this debate, and I really appreciate the intense passion and feelings expressed by folks in the Public Defender's Office. They do a fabulous job. They shake their heads. They can't believe once upon a time I was a special public defender, but it was true. And we're going to disagree philosophically on this issue. But I did ask a question during the Judiciary Committee -- can't say it was a hearing. It was more informational hearing that we had on the death penalty, and, as much as Chief Public Defender Storey was very impassioned in saying that she felt very firmly that the death penalty was uncivilized and Connecticut should get with the program that's in



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every other nation, I think except Japan -- I did ask whether eventually the grounds for appeal run out and that is it possible even if you feel strongly and stridently about as a defender of these individuals. And there's no need that they have to have public defenders. They can have private counsel. But she did indicate, and I believe this is correct, that it at some point there is a lack of grounds and the process will come to an end whether that's in 10 years, 20 years, 30 years, 40 years. I don't know.

But when people say will Connecticut ever have a workable death penalty, I say, A, yes, it does work. It's super slow, but, eventually, the appeals process will end.

And I will throw this in here now, as well. I think we're all serious about trying to have a workable death penalty if we support the death penalty. One of the things that seems to be lacking is resources. Resources to properly compensate private counsel that are hired to take over these cases, but, also, in some of these cases, you wonder how this appeals process can drag on and on and on. In one of the cases through the informational hearing, it's my understanding that just ordering and getting the transcripts from the original trial took close to

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three years. Why does the process in Connecticut take so long? We afford every opportunity for the defendant to appeal. That's why. And if people want to seriously sit down and figure out a way to reduce that process as far as time, I am more than happy to discuss that. But when I spoke at the informational hearing with Chief State's Attorney Kevin Kane, I did broach the notion that if we try to change the construct, the paradigm too much, will that actually form a basis for new appeals? And he said yes. He said yes. So the efforts that we've made in the mid 1990s have borne fruit, but they've borne fruit for the detractors of the death penalty. I'm not so sure they bore any fruit for proponents of the death penalty. But it's now been well over a decade since we put those reforms in place. And now, ladies and gentlemen, I think that we got to ride it out.

Safe, legal. I don't think that anybody can accuse our system of being illegally put together or unfair to defendants. Our state has bent over backwards to have a fair and balanced approach to capital felony and the death penalty.

There is one last argument out there regarding how it's utilized throughout the State of Connecticut and that will play itself out in the courts as far as

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race and ethnicity and geography. But, again, at the informational hearing regarding a direct question to Chief State's Attorney Kevin Kane, regarding this. He stated that he felt very confident that at the end of the day, regarding all of these fundamental appeals, based upon constitutial -- constitutionality and fairness that the State would ultimately prevail. And I believe him. I don't always agree with the Chief State's Attorney, but I believe him.

The other aspect that sort of tied into this because as part of my argument that even though we've gotten along of time, don't let that dissuade you from supporting the construct that we have here today is the argument that it's unfair to victims. I have not done a poll of victims, and, indeed, there may be a majority of victims that feel so darn frustrated by the system, they'd rather see it thrown out. But I will say this, from the public hearing we had in the Judiciary Committee not only this year but in past years, there is a sufficient numbers of victims, family members who have come and testified before us who have said, I don't care how long this takes; I'll grow old, but it's justice that needs to be served. They state unequivocally, nobody gave my son or daughter this choice. The death penalty has been

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imposed. I don't care how long it takes but I'll wait.

I have been really hesitant to even raise after almost an hour of speaking on this bill, 45 minutes, to talk about the horrific tragedies in Cheshire and Dr. Petit. But one thing absolutely took me by surprise in the last few months was Dr. Petit not only was brave enough to come up with his sister and testify before the Judiciary Committee on this bill in opposition, but he's been home watching on CTN all these hearings, informational and otherwise because I have received emails from him saying that he is passionate about this issue. And there are individuals who have argued that his poor deceased wife felt contrary regarding the death penalty, and that's a reason to support this bill.

All I can tell you is that the good doctor feels very strongly that the current construct we had in the State of Connecticut, if not perfect, should not be abolished. If there was any sane way, any fair way to reform the process, to expedite the process while still being fair to the defendants and not creating more grounds for appeals and gray areas to file for habeas corpus, show me the body. Habeas corpus, show me that body -- constitutionally protected. We would

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go there. But, on balance, I think enough victims' family members feel that any sense of justice for justice to be achieved in the State of Connecticut, they're willing to wait. It may not be the fairest thing in the world, but they have told me loud and clear, nobody gave a choice to their son or daughter, their mom or dad, their loved one, their friend, do you want to die today or do you want to have life without possibility of release? They were never given that choice.

Safe, legal, and, now my last point, rare. I'm born in Massachusetts, raised in Connecticut, Windsor boy. We always took great pride, first English settlement in the State of Connecticut, Oliver Ellsworth, Chief Justice of the United State Supreme Court. We may not have had the richest town. Certainly, didn't have the poorest town but somehow every kid that was raised in the town of Windsor had a great sense of pride and place. We sort of knew who we were, and we knew what we were about. We were Connecticut. We were nutmeggers. We were land of steady habits. We were New Englanders.

I was able to get away with those few years as a pre-grammar school growing up in Shrewsbury, Massachusetts. New England has an incredible history

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of tolerance, and it is something to be revered. We were the first folks that said, slavery, no way, no way, abolitionists. It was not perfect.

Read the story of our state heroine, Prudence Crandall, established a school for young girls. Remember the story? Brought in an African American girl, guess what? This is like the 1830s. All the parents of the white girls pulled their kids out. No way are you doing this. Do you know what her response was? Fine. I'll create a school just for African American young ladies. It didn't last long. It only lasted about a year or two, but she was at the forefront of saying this is the way I want my world to be. I want to live in a tolerant world. I believe in justice and equality, and for people to treat each other with this respect and dignity. Prudence Crandall, state heroine.

We have that ancient historical tradition replete throughout New England, whether you study Ralph Waldo Emerson, the transcendentalists, Henry David Thoreau. We are proud of the fact that we are tolerant of one another. We are proud of the fact that we formed these New England colonies to escape the injustices that we found if we came here from another country in the first wave from Europe and then as the years went

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by from the four corners of the globe. We see it here in this circle. We're unafraid to take the high-minded view that we should lead the nation regarding various aspects of how we treat one another. We take great pride in the fact that our state constitution may have a wider ambit than our federal constitution. And we will read into that history, greater rights and greater protections for men and women and our children despite race, ethnicity or any other measure. I understand that. The Windsor boy, I understand that. That is why in our state, while I espouse the fact that we need to have a death penalty statute on the books, it should be rare.

William Jefferson Clinton, rare, legal, safe. Why doesn't that apply to the utilization of the death penalty in our criminal justice system here in the State of Connecticut? It has a purpose. It has a place. It is the imposition of the worst thing that we can do to a human being at the end of the day, but, fundamentally, I believe it works as a deterrent. It is utilized sparingly. We bend over backwards to help make sure no one is on death row unjustly. And, therefore, we can take pride in the fact and not feel accused of being uncivilized. Yes, we have this. We don't want to have to use it. But, in those rare

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instances where someone's behavior is so antisocial, so horrific, so diabolical in their disrespect for the life of those whom we love and cherish and call mom or dad or grandma or grandpa or son or daughter or friend or neighbor or colleague. For these reasons, ladies and gentlemen of the Senate, I firmly believe this bill should be defeated, and we should hold onto the statutory construct we have and utilize our death penalty statutes and protect them as safe, legal and utilized rarely.

Thank you very much, Mr. President.

THE CHAIR:

Thank you, Senator Kissel.

Senator Meyer.

SENATOR MEYER:

Thank you, Mr. President. I'm not going to speak as long as Senator Kissel. But, hopefully, in that greater brevity, I'll be more persuasive. We are, when we vote, going to exercise our conscience as we seldom do in this body. When we vote either up or down in this bill, it will be truly an act of conscience. Our conscience may dictate on the one hand, as Senator Kissel was just saying that when a human being commits an atrocious act and takes a life, then the government must take a life as well. Or at



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our conscience may say to us that we believe in reconciliation that we believe in the humanity of life and that we treasure the concept of life itself and that will be an act of conscience as well.

I went to law school and motivated by a criminal law professor, studied for the first time the issue of capital punishment as we called it. And I probably was pro capital punishment but I decided to do my third year thesis on capital punishment. And somewhat to my surprise, I discovered after looking at what states -- what had happened in states and in countries particularly in European and Scandinavian countries that those states and those countries that had repealed the death penalty and had the death penalty that there was absolutely the case was made that the death penalty does not have a deterrent effect. And if it doesn't have a deterrent effect, what are we doing with it except -- except in effect being vindictive? I went to the New York State lec -- to the New York State legislature and voted four times on the capitol pun -- on capital punishment there.

The first time we had a poll. We'd taken a poll on capital punishment. And my constitu -- constituency in New York had indicated 88 percent support of capital punishment, 88 percent support.

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And, as a young political person, I got great trepidation about voting against the death penalty in New York with that kind of constituency. But I discovered something remarkable. I discovered conscience again. I discovered that my constituents understood that there are certain public issues, certain issues that we all vote on that are matters of conscience. And if you describe it as a matter of personal conscience with you, our constituents understand that. And I was returned to office in New York. I was a little bit more loquacious in those days than I am today, and the fourth time that the capital punishment bill came up before it was actually called, the speaker of the State Assembly in New York asked me to be acting speaker, therefore, he stopped me from being able to debate the bill -- still upset at him over that.

Many of the people who support the death penalty talk quite eloquently about justice. And I have tried to work out the concept of justice in my mind, and I want to just briefly say as some of the others have spoken here today have said a different concept of justice. Is it justice for the families of victims of murders to have to anguish for 20 years before they see the certainty of what will happen? I think not.

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Is it justice to the taxpayers of Connecticut to have to pay for about \$4 million, the cost -- the cost of putting someone to death in Connecticut? Is it justice even to the offender who -- the alleged offender, who later is exonerated by discovery of DNA evidence?

The Hartford Courant wrote this recently, justice would be served if Connecticut's death penalty statute were repealed and replaced with a sentence of life in prison -- prison without the possibility of release for those convicted of the most serious crimes. Senator McDonald referred to the direction that our country is taking with respect to the death penalty. Fifteen states have now abolished it, three of them in just the last two years. Two of them are states -- are very close to us, New York and New Jersey; and the third just this past March, two months ago, was the State of New Mexico.

You know who our partners are in doing executions in this world we live in? Eighty-eight percent of the executions that take place in the world occur in these countries China, Iran, Saudi Arabia, Pakistan, and the United States. Some partners we have.

I want to close by saying that I was impressed somewhat surprised when my wife Patti Ann came to me

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last week and said that she was organizing our church to reach out across the State of Connecticut to the Governor's office and to the General Assembly, and, particularly, the United Church of Christ members were congregationalist. And, indeed, since said she told me that, she and other members of our church have been in one of the most intensive campaigns I've seen, and I've been in political campaigns as they've reached out to so many people to talk about this remarkable issue of the death penalty.

I see in the gallery here members of the Catholic Church, as well, as people representative of Protestants. What a -- what an important message this is. It's a message, ultimately, about life and about reconciliation. And I do hope that any of you who are undecided will vote that way.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

Mr. President, I rise with questions for Senator McDonald, if I may.

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Senator McDonald.

SENATOR CALIGIURI:

Thank you, Mr. President.

Senator McDonald, your first argument against the death penalty was that it was a failed policy in part because we haven't executed anyone in approximately 50 years. And my first question is why should the answer to that be to eliminate it instead of reforming the system so that we can have a more expeditious application of the death penalty? I say that in part because it wasn't that long ago that we concluded that our parole granting process was flawed. And yet we didn't decide to throw that system out the window. We looked at the problems and we made changes to improve and reform that system. And, yet, we're taking a very different approach with respect to the death penalty. If this is truly flawed because it hasn't been applied in a long time, why isn't the correct answer, with respect to that argument, to make the sort of changes we need so that it could be applied more expeditiously? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

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Through you, well, as I indicated in my original remarks, the -- the last effort to make it more workable was spearheaded by Governor Rowland and his legal team to try to expedite the sentences of death. And, as I indicated, then Chief State's Attorney bailey thought that those reforms would cut appeals down to three and a half years. And we know, of course, that that has not been the case.

And when we had our our public hearing in the Judiciary Committee we posed those questions to Chief State's Attorney Kane and asked what would it take in your opinion to make the death penalty more workable? If that is a term that can be used with respect to the death penalty? And his proposal in sum and substance that would be applicable to anybody currently on death row was to expedite transcripts. And with all due respect to the -- the folks in the Chief State's Attorney office, it does take a long time to produce transcripts, but it certainly doesn't account for the decades long delays and -- and actually, I should say not even delay -- in counting. We really do not know if any of the individuals who are on death row will ultimately, ever be executed. And, in my opinion, at least, that is because the system that we have is unworkable and all of the proposals that we have heard

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present their own problems and in and of themselves are unworkable. And, in my opinion, there is nothing that has been presented, nothing that we have seen, nothing that we have considered that would make it a workable penalogic device.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

Clearly, as Senator McDonald indicated, and I have a number of additional questions for Senator McDonald, there are other states that have applied the death penalty with greater frequency than we. And so, clearly, there are other models in place for systems of applying the death penalty in a way that results in a more expeditious application of that penalty where it's applicable and appropriate. Why aren't those models for us to look at, and why is it that we have reached the point where we are saying that there are no other good ideas out there for improving the system when there are other jurisdictions, whether you agree or disagree with the merits of the death penalty itself, and that will be a separate set of questions that I have for Senator McDonald, but in terms of raw workability and applicability, why aren't we looking

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to states like that? It seems to me those would be jurisdictions from which we can garner ideas for making changes to our current death penalty, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, we have considered or reviewed all proposals that have been submitted from any corridor. And we have looked to the professionals in our criminal justice system to share with us their opinions about the best ways in which, if the legislature chose to retain the death penalty, the best ways in which it could be reformed in a manner that would actually provide -- provide a workable solution that would actually deliver a sentence in -- in our state. And as I've said those best legal minds from our criminal justice community have not come up with anything that is -- that is going to substantially change the way in which our death penalty is administered and that is, in part, because we have our own constitution. We have our own Supreme Court who has interpreted the constitution. And even if we were to somehow transpose models, as I think it was your comment from other states, they are not



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necessarily transferable and applicable to our constitutional scheme.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

And yet to be clear and this is probably my final question on this particular point, our Chief State's Attorney did make a suggestion, one that I think has been trivialized to some extent by Senator McDonald. But he did make a suggestion for making the system workable in his view, and it's a suggestion that we are choosing not to attempt to implement, through you, Mr. President; isn't that correct?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President. It was, in fact, the opinion of the Judiciary Committee that the substitution of a mandatory life in prison without possibility of release penalty for murder with special circumstances was a more definite and more certain punishment that would punish the defendant and allow families of the victims some sense of closure in a much more expeditious fashion than the never ending

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decades long appeals process with respect to capital punishment.

I should also say I certainly disagree with Senator Caligiuri that I was trivial -- trivializing in any way the suggestion of the Chief State's Attorney about modifications to our existing statutory scheme. I know very well that he and his staff have worked very hard on these proposals. I think it's a measure of the difficulty of the subject matter, not the -- not the proposals offered that rendered the proposals something that is -- is not going to end up with a workable solution. I said that because the proposal was to expedite the transcripts.

There was also an additional proposal with respect to limitations on habeas appeals, and I said that it wouldn't have applied to any of the current situations because all of the individuals who are on death row are actually still involved in their direct appeal. It's got nothing -- these decades long delays have nothing to do with habeas corpus reform.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

My second line of questioning relates to the

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reason to have a death penalty in the first place.  
And I would ask Senator McDonald whether he agrees with the general proposition and the statement that, in general, the penalty must fit the crime, and that our system of penalties in Connecticut, in general, has sought to match the penalty with the applicable crime to which that penalty relates.

Through you, Mr. President, does Senator McDonald agree with that proposition, in general?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Though you, Mr. President. Could Senator Caligiuri repeat the question?

THE CHAIR:

Senator Caligiuri, could you please repeat that question for Senator McDonald?

SENATOR CALIGIURI:

Yes.

Does Senator McDonald agree with the proposition that the penalty for a crime must fit the underlying crime itself, and that our criminal justice system, and, in particular, the penalties that are imposed, have historically sought to match the penalty with the severity of the crime to which they relate. Would you

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agree -- agree with that general statement?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, given the breadth and scope of the -- the question and as a generic and overarching principle, I guess I couldn't disagree with the suggestion, although it is limited by current knowledge, current understanding and current configuration of our statutes.

I should also mention, Mr. President, and in -- and in further response to Senator Caligiuri's questions that we, in the Judiciary Committee, are not the only source of these ideas. And, in fact, not one legislator, not one legislator proposed any modifications to our capital punishment system that would have changed in any way our structure. So it wasn't because -- I know Senator Caligiuri and others have very strong opinions on this about the -- of it one way or the other, but there have been no proposals to modify our system from any legislator. And it was only after the Judiciary Committee requested the Chief State's Attorney's office consider any modifications that we received the proposal from -- from him earlier this year.

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THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

The reason I asked Senator McDonald the question about whether he agreed with the general proposition that the punishment must fit the crime is because I wanted to establish that before I asked him the next, I think very important question, which is if you start with that general proposition, and I know you agreed with that as a very, very general matter. My question to Senator McDonald is very simply, why isn't death the appropriate penalty for someone whose has committed the type of murder to which the death penalty is traditionally applied in Connecticut?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, because it's not working. It is not a sentence that is being carried out. And, in my opinion, at least, it is brutal to the families of these victims to put -- continue to put them through a system that is never, in my opinion, going to deliver the result that they were promised. And in -- in my personal opinion, I believe

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that a sentence of -- a certain sentence of life in prison without possibility of release is, in fact, a harsher penalty.

Release from this life is -- is the best of circumstance for somebody. Sitting in an 8-by-10 cell until your heart stops is the worst punishment, in my opinion.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

To be clear, I feel that I've heard two answers there. The first, initially, was conflating the first line of question we had with the second. But I think the second part of the answer was the more direct response to my question, which is that, in Senator McDonald's opinion, life imprisonment is, in fact, a harsher opinion than death.

And I'd like to ask for the record whether in fact I have that right and that's what Senator McDonald believes.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, as I said, the death penalty is unworkable. We know that to be true. We

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know that efforts to reform it have failed. We know that, in 2005, when we had a public hearing on this subject, we had seven family members of victims come and testify before the Judiciary Committee and six of them asked us to abolish the death penalty. So there's -- part of this is my opinion, but it is informed by the testimony of the family members of these victims.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

I'd like to try the question again. Is it Senator McDonald's opinion that life imprisonment is a harsher more fitting penalty than death for these individuals?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, as I indicated, the penalty of life in prison without possibility of release where someone is definitely and quickly given that sentence where it is certain to be upheld is a better social and criminal justice resolution to these heinous crimes than to put the families through a process that is elusive and, in my opinion, unfair to those

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families.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Sounds like as close to a yes as I'm going to get. So I'm going to move on to the next line of questioning.

The next line of questioning had to do with error and the possibility of error. And yet we deal with the possibility of error in every aspect of our criminal justice system. And I'd like to ask Senator McDonald, why is the possibility of error in this sort of situation the, sort of, rationale that would justify getting rid of this penalty, which, as Senator Kissel pointed out, is indeed rare in its application?

THE CHAIR:

Senator McDonald. Oh, I'm sorry.

SENATOR CALIGIURI:

When we -- that's all right, Mr. President.

When we have other instances where errors apply and yet we aren't throwing out those penalties.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I would think that



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the answer to that is self-evident that an error of this magnitude cannot be undone when one has been executed and the error is discovered after the execution.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Would Senator McDonald agree that Connecticut has been very progressive in the use of DNA testing and other tools to minimize and, if not, eliminate the possibility for error as a practical matter? And why isn't that ultimately the better way of solving the problem than eliminating this penalty as an option for us in the first instance? Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, there are -- we know that there are several cases where DNA evidence is still being examined that we don't know the full scope of the errors that are associated with DNA, but I think it would be incorrect to think that DNA evidence is the only the way in which errors happen in our criminal justice system.

Errors happen because of misidentifications.

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Errors happen because of bad lawyering. Errors happen because of suppressed evidence. Errors happen because of -- because of people who lie on the stand as witnesses. Errors happen in a whole host of ways not just with physical evidence.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

And I would just note that -- and there's always a certain risk to taking logic to its extreme, but we are about drawing boundaries and drawing lines and striking the right balance, and I would just note that, though, a very logic that Senator McDonald articulated could be a logic for eliminating any number of criminal penalties that we have in place and, in fact, significant parts of our criminal justice system. And I personally find them ultimately not to be persuasive given the safeguards that we have a chance and, in fact, haven't put in place in Connecticut.

And my final line of questioning for Senator McDonald relates to the notion that, ultimately, the death penalty is cruel to families because of the amount of delay that's involved in applying it. And

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to Senator McDonald, as I understand it, the right answer is to eliminate that delay by simply not making death penalty an option. My question to Senator McDonald, and I suspect I may get the first -- the answer I got to the first line of questioning, but it seems to me that the other way of tackling that problem would be to use our best efforts to reform the death penalty to deal with the excessive delays that have been involved in that process and the problems that we have identified up to that point as opposed to simply throwing it out the door as an option in our criminal justice system.

Why isn't that an equally legitimate and viable way of dealing with the final problem that Senator McDonald has articulated, namely, the alleged cruelty to families caused by the delay.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, I find myself in agreement with -- with Senator Kissel on this that reforming the death penalty would do nothing more than create a new set of issues that would be the subject of litigation for decades more. And we know that from our prior

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experience in trying to reform it, every time that you tinker with the statutory scheme, the problems that are created by that process have effects in the judicial system for decades thereafter. And we have been cautioned with respect to modifications to our statutes by the Chief State's Attorney. And, as Senator Kissel so artfully and eloquently spoke earlier, that those modifications create new levels of problems that we cannot anticipate at this point but we know from history will be the subject of litigation for years and years and years.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

I find the -- Senator McDonald's response somewhat puzzling to me because it assumes that reforms and modifications could, in fact, be made. And, yet, his responses to my first line questioning consistently were that we couldn't make such reforms and modifications.

So my question to Senator McDonald is which is it? Is it we that we can't make modifications and reforms, or is it that the modifications and reforms that we can make would result in excessive litigation?

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THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, through you, I don't believe anything I've said in any of my prior answers to Senator Caligiuri are inconsistent.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Let me see if I could put the question a different way. Is reform of our system possible or is it not?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, reform of any statute is possible. You could say that the bill that we are debating is reform. The question is -- I believe the question is, could we do it in a way that would satisfy Senator Caligiuri? And I don't believe that Senator Caligiuri or anybody has offered any legislation to the Judiciary Committee which would achieve that result.

THE CHAIR:

Senator Caligiuri.

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SENATOR CALIGIURI:

I would love the opportunity to work with Senator McDonald, and if he withdraws this bill, I promise to do so. And I guess my question is, is he willing to do that?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Caligiuri, the bill was favorably reported by the Judiciary Committee and overwhelmingly passed by the House. I don't believe it is something that is going to be withdrawn.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

And I thank Senator McDonald for the responses that he's provided me to my questions.

And at this point let me just say that I disagree with every one of the points that Senator McDonald has articulated for why we should this bill and ultimately abolish the death penalty. Number one, if the death penalty is a, so-called, failed policy because we haven't applied it in 50 years with one exception,

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then I think we ought to devote our efforts to reforming and improving the system so that we can have a more effective administration and justice when it comes to applying the death penalty. Don't throw it would the window.

I've never said -- and many proponents of the death penalty -- penalty do not argue that's it a deterrent. I would say it's simply a matter of justice. Senator McDonald agreed with the general proposition that our criminal justice system is structured and based on the proposition that the penalty must fit the crime. I can't think of a more fitting penalty for murder of the type that we're talking about here than death. And if that is the right approach, in general, as we seek to match penalties with crimes, I see no reason why this type of crime, namely, heinous murder, should be an exception to that rule.

On the issue of errors, that's something we have to be very careful about. Which is why it should not be easy ultimately to put someone to death. We can't do it willy-nilly. We have to use every means at our disposal to ensure that error has not been made, and, to the extent that it's been made, that we've identified it. But the possibility of error is no

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more a reason to eliminate it in this case as it is in every other aspect for the penalty for a crime is harsh or else we have no criminal justice system.

The issue of cost, frankly, is hardly compelling to me because I think we all would agree that we need to commit the resources that we need to commit as a state to carry out our duties and obligations. And there is no higher duty and obligation that we offer and have to our citizens than public safety. And to the extent that we are keeping the most vicious murderers off the street and, ultimately, administering justice in a way that is fair, I think we served the public interest and cost should not be an issue.

And, finally, to say that the right thing to do is to eliminate the death penalty because the death penalty is cruel to families of victims of these crimes, I disagree with, respectfully, because ultimately I think the greatest injustice we offer these families is to have a system that can be improved -- approved -- improved and yet not improve it. And I think we owe them our best efforts to make the system more workable not to eliminate it altogether.

You know, Dr. Petit when he testified earlier



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this year in support of the death penalty said my family got the death penalty and you want to give murderers life that is not justice. I agree with him. And that's why, ultimately, I believe that this bill, although well intentioned, should be defeated.

I thank you, Mr. President.

THE CHAIR:

Thank you, Senator Caligiuri.

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, when we get elected to the legislature, to this body, or to the House of Representatives, many times I think many of us come to this chamber with an opinion on a variety of issues. And we're expected to come here knowing about many different issues and ideas about how we want to do our part to change the world to make the world a better place, and -- and kind of a road map to the agenda we want to follow and what we're elected to do.

But I can tell you that speaking personally, myself -- this is my eighth session here -- when I was first elected, while I had opinions on a variety of issues, one of the issues that I did not have an opinion on was the death penalty. And I had thought

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about that long and hard over the last many sessions whether or not this would never even come to a vote or not what my opinion would be if this ever came to the point where it is tonight.

I think like many people in the public, anyway, and maybe some people here in this building, I've always kind of been ambivalent about the death penalty. Many times I -- you see -- I've seen crimes happen that have been violent, and I thought to myself, geez, you know, those people should pay the ultimate penalty. And there's been other times when I've seen people wrongly convicted and poss -- and executed and thought to myself, shuddered to think that our country would make such mistakes like that. So this is a tough issue. I know it is for many people. And I've enjoyed listening to the debate so far, and I know that this is a vote of conscience for many members of the circle here this evening. And it's not an opinion that I came to lightly. I struggled with this for years as I thought about how I would, ultimately, vote whether or not we repealed the death penalty or not.

I guess I've started off as what are the goals that we have for the death penalty here in the State of Connecticut? I guess it would be to deter crime

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and it would be to provide victims with a sense of relief and it would also be to send a message to criminals that if they were to take a life that they, ultimately -- the State could ultimately take theirs as well. But I'm not quite sure that that actually is the case that it is a deterrent; that it provides relief to the victim's families; or does it really send a message to the criminals out there that we might take their life if they take somebody else's life.

A few years ago, we had the execution of Michael Ross, and in this chamber and the chamber downstairs there were debates about the death penalty and the House actually did have a chance to debate that and vote on it. We did not have that chance. But at the time we'd -- I don't think a lot of people were sure whether not that was going to happen or not. And that was a -- probably a time for myself that I had a chance to probably reflect the greatest about this issue and how it ultimately come down on this should I have had the opportunity to make a vote.

So I was given a book by a nun and I'm not sure I would imagine that other members of the circle probably received the same book. It's called, "Ultimate Punishment" by Scott Turow. And it was a

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book that ultimately -- changed my opinion or at least helped me to come to a decision that I could be comfortable with on this issue. Scott Turow is a writer. He's a lawyer. He's a former prosecutor and served on the Illinois Commission that was put together by Governor Ryan of Illinois when he commuted over a hundred death sentences, and they put together this commission to study the death penalty.

What I liked about this book, when I first started reading it, was the fact that Mr. Turow was somebody who was probably had the same opinion I did and maybe many others as well about the death penalty. He was somebody who was probably ambivalent. I think he actually mentioned that in the book. He -- his -- his views were the same as I had just described earlier about it. But he had an interesting past in the fact that he was a former prosecutor and did prosecute cases and prosecuted people to the point of the death penalty and how he had changed his views over the course of time and how his book was really laid out in a very objective way.

And what struck me most was that some of the different stories that he told about his time been a prosecutor and also the time on the commission. And it was -- and looking over this book, again, I haven't

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opened it in a few years but reflecting back and -- and reading through the book again a little bit this afternoon -- this morning and this afternoon, was even in the very first chapter he talked about was the person who was convicted twice of a murder, put on death row, but released after ten years because it was a murder he did not commit.

Many of us tonight are -- are going to be debating whether not we should make changes to the death penalty laws if we do uphold the death penalty and making the pro -- appeals process much quicker. But for this person who was on death row and twice convicted, which is pretty amazing in the fact that he was twice convicted and, ultimately, found to be innocent of the crime, would a quicker appeal -- what would that have done? That would probably have taken his life, a life of an innocent person.

We also -- he also talks in the book about people who make false confessions maybe because they have some mental illness, maybe because they're trying to make deals if they're in prison and trying to get a lighter sentence themselves, maybe because their ratting our a friend, a whole host of reasons why there are some flaws in the system.

He also brings up the point which I know we're

going to be debating later on about fair trials of people who -- who are -- who have heinous crimes. For instance, there was an example in his book about talked about, well, there are a lot of people who say, well, we should only have the death penalty for the most heinous of crimes, for instance, somebody kills a cop. And he spoke about that very eloquently by saying that -- because I had thought that, too. Well, maybe there's a compromise. Maybe there's a middle ground in this. And he spoke about how in the -- in -- if you have this kind of carve-out for the death penalty and you have where somebody commits a heinous crime, for instance, they kill a cop, and how that -- there's really so much pressure on the police, by the media, by the public at-large to find somebody, anybody, who might be in the wrong place at the wrong time, who might look like the suspects, who may have confessed in a false way that there is this pressure upon the -- the police and prosecutors to not only arrest but convict somebody and pressure on the jury to say, yes, we probably would convict somebody even if we believe that may not be the person because, as a jury, we probably don't want to put somebody money back in society even if we think they may not have done it. We don't want to put -- take that risk.

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We'd rather go the extra mile to make sure that somebody like that stays in prison for life.

He also speaks about executing the mentally ill and how in book -- it was either in the book or another example that I read, where somebody who was being executed had said, right as they were about to be injected said to his executioners, after this, what's for dinner? So somebody who was on death row being executed didn't even really know what was happening to them. And to me that is not exactly a mark for our society that I am very proud of.

And, of course, as I've said previously, we have certainly in this country executed innocent people. To that -- this book, a short little book about 150 pages has helped convince me that the death penalty is not the right answer in the State of Connecticut. And that we have this opportunity tonight to repeal it with life in prison without the possibility of release, which I think, is the way to go for our state.

The death penalty, again, doesn't do three things, in my opinion. It doesn't lower the crime rate. It cost more to execute somebody. And it doesn't bring relief to victims' families. And I'll end here with a quote from the book, which is a person

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named Dora Larson, who is a victim advocate in Illinois, and she says that, We, survivors, our biggest fear is that someday our child or loved one's killer will be released, and we know we'll never, ever get our loved one back. We want these people off the streets so that others might be safe.

And that's what we're doing tonight. We're taking them off the streets forever. We're making sure that they never get to see the light of day again. And that victims who don't -- victim's families do not have to go through the roller coaster ride of 20 or 30 years of court cases and appeals and emotions; that once the person is put away, they're put away forever; and that while it will never bring their cherished love one back, it would at least allow them to move on with their lives. And my opinion is that is the way we need to go tonight.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Gomes.

SENATOR GOMES:

Thank you, Mr. President.

I want to open my remarks with something that was said by Mr. Kissel, I was born in Massachusetts and I



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was raised in Connecticut. And I think that's about as near to remarks that I agree with that I will get to that Mr. Kissel has expounded on. When I came to Connecticut, in Bridgeport, I lived in predominantly rough neighborhood, mixed neighborhood, very rough neighborhood.

When you talk about a threat to my life or my way of living, then I'd have to tell you the very first people I mistrusted where the police. When police came to my neighborhood that meant trouble for me or some of my friends. We had a cop on the block. We called him big Red. Big Red would walk behind you, take his club out and whack you across the back or the butt and say, Get home you little "N" word and or -- or you little black bastard or whatever -- excuse the expression. I'm sorry -- but these are the things that made us not believe in the justice system.

I grew up and I met other people. There were no black cops. There were no Hispanic cops. There was nothing we could identify in the justice system. As I grew older, I met a real good cop. His name was Frank Lee. He was one of the best cops I've ever seen. He ran a youth bureau. And I loved that cop. But it took me a long while to believe in justice system because in my neighborhood when you said justice it was

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pronounced "just us."

Some of the things we've heard here today, you talked about the capital punishment allows our state to be more safe, the best system in the country. If this is the best system, I would hate to see what is the worst. I've heard titles of -- or some of the words like heinous crimes, the best of the best and the worst of the worst.

The best of the best is usually applied to policemen, firemen and people who serve, but you just have somebody -- have somebody in their family be killed and the best of the best to them is that member of their family that got killed and the heinous crime was committed by this person who killed them and the worst of the worst was also that person killed them.

When we talk about the worst of the worst have wound up on death row in this state, in 1973, they applied to capital punishment, the death penalty in our state. Since 1973, to a report that went all the way up to 2007, there've been 4600 murders. Of that, lot of those murders, about 40 percent of those murders have been solved. Prior to 1973, there were less murders and there was about -- I would say a more -- more of a solving rate than after the death penalty was applied. And, just prior to the adoption of the

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state's death penalty in '73, only 7 percent of murder cases were not cleared by arrest or other means. And, in 34 years since, there has been an erosion in the fraction of murders that are solved as a result. Today, roughly 40 percent of all murderers go completely free.

This implies that under current circumstances for every defendant who receives a sentence of death, 16 equally egregious murders will essentially have a zero sentence.

I have heard it said here today that a death penalty is a deterrent to murder or to crime -- to murder to be exact. It has actually done nothing since 1973 to improve the murder rate. It has done nothing exactly, since 1973, to improve the numbers of crimes that have been solved.

In an overview of this -- this study and the study was Capital Punishment in Connecticut 1973 to 2007, a comprehensive evaluation from 4600 to one execution, and this was done by Professor John Donohue. And what it was supposed to be was a systematic evaluation of capital punishment in the State of Connecticut. The overview of this is, he was asked to look at every phase of the operation of State's death penalty and regime to see if the system

in its entirety or in particular aspects was operating in an arbitrary and capricious manner and, specifically, whether there was racial or geographic disparities or arbitrariness in capital prosecution and/or the imposition of death sentence in the State of Connecticut.

Years ago, what made me scared of the death penalty was that I read a book. It was called "The Soledad Brothers." What it meant -- it was some brothers that were incarcerated in California in Soledad Prison, and they spoke of a death-oriented juries. And what they meant by death-oriented juries is that if you were indicted, if you were Black or Hispanic and you were indicted, you were convicted. And that means a hell of a lot of people wound up on death row that maybe didn't belong there.

The overview of this study, the objective is to assess whether the system operates lawfully and reasonably or is marred by arbitrariness, capricious and discrimination. And some of the observations was the latest evidence on the freakish and frequency from which the death penalty regime is serving any legitimate social purposes. Second, mindful of the Supreme Court's mandate that within the category of capital crimes, the death penalty has not targeted the

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worst of the worst as they claim it has. At best, the Connecticut's system haphazardly singles out a handful for execution from a substantial array of horrible murders. That's the 13 people that they put on death row out of 4600 since in the 34 years prior.

At worse the defect of the evident arbitrariness of the sentence of convicted capital eligible defendants is further tainted by elements of discrimination based on the race of defendants and victims. Again, the Connecticut death penalty system is found to be warranting arbitrariness and/or discriminatory are defining features of the implementation of State's capital punishment regime.

Let's get to the part where they said that victims -- that just brings -- that just brings peace to victims to execute the murderers of their loved ones.

We had a guy named Walter Everett. Walter Everett was from Bridgeport. He had a son that was killed on July 26, 1987, and he said lived a full life of rage for almost a year. Toward the end of that year, he was invited to the State Attorney's Office where I was told that the State had agreed to a plea bargaining. The defender would accept a sentence of ten years, suspended after five. He said he was

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furious, but the State's Attorney informed him, we know you don't like it, but you don't have any say in the matter. The state is the injured party. The state prosecutes. You're just a bystander.

He went on to say this really infuriated him that he was considered a bystander after he had lost someone in his family, but, over the years, this man came to believe something else. He testified before the Judiciary Committee, and he believed the only peace that he has gotten over the years is that he learned to forgive the person that had killed his son. And he also believed that families have been able to begin the long arduous process towards some semblance of healing. There's no such thing as closure or instantaneously healing with a death of a loved one. Healing is a life-long process. We owe it to the victims to allow this process to begin long before two decades have passed.

Life imprisonment without the possibility of parole for the defender would give the victims at least a fighting chance to begin the slow process and a measure of healing. We're sitting here talking about a process that has been in effect from 1973 until now. I think that's 36 years, and we've had an increase in the number of murders. And, out of 4600

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people, we've managed to put 13 people on death row. And the only one of them that was executed was a person that asked to be executed because he felt like that was a better fate for him than to live in an 8-by-10 cell.

I heard another person up here, in the Senate -- not in the Senate but in the House refer to the fact that life, as it is, is a good life pertaining to a person being locked up for the rest of their life. What he was trying to say is, you get three-squares a day. You get clothes to put on your back, and you have the best health care system in the world. That's what he said. And this is what he measured against the fact that somebody would rather be dead than serve that kind of life.

Life without parole or no means of being put back out on the street, in my estimation, is not a life that I would rather live. We need to re-evaluate what is happening in the State of Connecticut concerning capital punishment. If you evaluate it and you find out the fact that, number one, it doesn't work. It doesn't deter any murders. Number two, it's costing us a fortune. Number three, it brings no solace to the victims.

And we sit here and we talk about this makes our

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State safe. Safe from whom?

I'd like to close with the fact that and say -- with the fact that if people weren't so intent upon -- and I mean this when I say it, intent upon vengeance rather than justice, maybe the capital punishment would seem more in the light of somebody's eyes, in might seem that it was worth the trouble, but all that capital punishment has become in this state is just a means of vengeance. It has proven to be nothing else. It doesn't deter crime. It doesn't offer anybody any solace. It's costing us a fortune. I understand that it costs \$94,000 a year to -- for each member that's on death row to support them. So I don't know what we are gaining out of capital punishment, at all. And I would hope that all my colleagues in this circle would vote to repeal the capital punishment.

Thank you.

[SENATOR DOYLE OF THE 9<sup>th</sup> IN THE CHAIR]

THE CHAIR:

Thank you, sir.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I rise to oppose this proposal on behalf of the victims of murder, their families, our



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law enforcement community, and for the majority of my constituents, who have weighed in on this very serious change of policy.

Some in proposing this change have pointed to polls. The most important survey, though, I have reviewed is that of my constituents who seem to favor keeping the state's death penalty in place, 70 to 85 percent, depending on how the question is asked. I've also recently canvassed my law enforcement community and town leaders, who by more than 3 to 1 margin also favor the current death penalty.

National sentiment seems to show that two-thirds of the US population supports the death penalty and that Connecticut voters on the 7th of November in 2007, supported it by a 2 to 1 margin due to a Quinnipiac poll that was taken at that time.

Some have pointed to saving costs of countless appeals as a reason for change and yet their economists ensures who point out that each state execution actually could detour between three and 25 murders per year, possibly avoiding \$70 million in loss by our society. There is a cost, by the way, as a felon ages and needs extensive geriatric medical care. With the high cost of long-term imprisonment true-life sentences is a real expensive proposition

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other than the death penalty. Yet, no state concerned with justice should base this decision on cost alone.

Some say that there is no closure or relief for victims, yet countless testimonies by families say just the opposite that it does bring closure. Dr. Pettit and his testimony before the Judiciary Committee just in March -- on March 4th stated that, My family got the death penalty and you want to give murders life. That is not justice. Any penalty less than death for murder is unjust and trivializes the victims and the victims' families. It is immoral and unjust to all of us in our society.

His sister goes on to say that there must be an appropriate consequence for one's own actions. The death penalty to her is not revenge. To her it's about justice and justice is about enforcing consequences.

Beatrice Votino also testified before Judiciary. She had lost the only family she had, a brother and a niece, who were gunned down in their home and she describes her ordeal and the same sentiments as the Petits. She went to court with clumps of her hair falling on the floor of the courtroom due to two mastectomies that she had undergone. She has now become recluse, leaving her house only for food and

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doctors. Another life that's been destroyed.

The deterrent factor, which is probably the most important to me at this time. To premeditate a murder is a major reason that I and law enforcement oppose removing this important State's statute. This penalty may not stop murderers due to acts of passion or insanity, which currently are not subject to our death penalty, but I do believe that it does stop premeditated murders, organized crime hits, drug traffickers from committing even more murders.

In fact, according to the testimony of our own Division of Criminal Justice, there are numerous studies that show it is a deterrent. That this penalty does prevent additional murders. They state that currently there are no innocent people on death row in Connecticut. They argue that the ability for law enforcement to use the death penalty is effective and is often used to plea down to life. That it has a positive effect on the willingness of defendants to plead guilty and accept a life sentence. This protects the public and saves the cost of trials and postconviction proceedings, as well as the anguish of victims' families.

If you only have life in imprisonment what deterrent do you have for a hardened violent criminal

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that are serving life in prison from killing and killing again in prison? What harm do we place our correctional officers in if we didn't have that deterrent in our judicial system and our correctional institutions?

You know, I had an interesting experience and an extensive conversation with someone who told me and works as a correctional officer in our prison system. And he explained the incredible violent actions that he and others in the employment of our state are subjected to on a daily basis and how he had actually witnessed a fellow officer have a knife placed to his chest and brutally murdered. And also about the many officers he trained with that could not withstand the pressure of the daily threats to their life and they dropped out of the program.

Some say that life in prison is worse than death, yet not the case as most criminals ask for and, in fact, plead for a life sentence, not death, just as many of their innocent victims do at the time of their own death.

According the testimony of Connecticut's Division of Criminal Justice on this bill, they believe that it just doesn't remove the death penalty going forward, as the bill would state, but also would effect those

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currently on death row.

We may disagree on this point, and I hope to get some further information from our Chairman of the Judiciary Committee. They believe it would abolish the death penalty for those ten violent criminals currently on our death row.

This bill, therefore, may very well remove the death penalty for Daniel Webb. Webb was convicted of kidnap and murder for the 1989 slaying of Diane Gellenbeck, a 37-year-old Connecticut National Bank vice president. He took her from a downtown parking garage to Keeney Park where he tried to rape her. She escaped. He shot her twice in the back as she fled. And, as she continued to attempt to crawl away, he walked up to her and shot her three more times in the head.

We have a Mr. Ashby who was sentenced to death for the 2002 rape and murder of his neighbor Elizabeth Garcia. High on angel dust, he broke into her apartment and raped her. He grabbed a knife, stabbed her to death, and, when she fought back, she was murdered. Prior to this crime, he was wanted in the rape of a teenager, later proved by his DNA. And just days before his arrest, he shot to death another man.

We have Ricky Cobb, who's a former deliveryman

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from Naugatuck, who was convicted of capital felony, kidnapping, murder, sexual assault, and robbery in 1989 and an attack on a 23-year-old Julia Ashe of Watertown. He let air out of her tire while she was in the mall, then offered her ride when she came out. He then proceeded to rape and beat her and then dumped body in a stream where she left -- where he left her to die.

Since this is a very serious and possibly the most serious change in course of state policy, Mr. President, I have some questions for the proponent of this bill.

Mr. President --

THE CHAIR:

Yes.

SENATOR BOUCHER:

Prepare yourself -- prepare yourself, Senator McDonald.

SENATOR BOUCHER:

Through you, Mr. President.

To clarify the current Connecticut death penalty so we know exactly what we're replacing with this new language, in Connecticut the method of imposing the death penalty was changed from electrocution to lethal injection in 1995. How has this changed since this --

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this particular change in '95? Through you, Mr.  
President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

It has not changed since 1995. The current  
method for execution is still lethal injection.

THE CHAIR:

Representative Boucher.

SENATOR BOUCHER:

Yes, through you, Mr. President.

THE CHAIR:

Senator --

SENATOR BOUCHER:

If a person that is on death row becomes insane  
during that period of time, is he put to death,  
according to our laws here in Connecticut? Through  
you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, the Supreme Court has declared that  
it is unconstitutional to put somebody to death who is  
not mentally competent. They would have to be

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restored to mental competence before the execution could take place.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you for the answer, Mr. President.

Further question, in Connecticut a person convicted of a felony -- capital felony can be sentenced to either the death penalty or life imprisonment without the possibility of parole. It would very helpful to me, and I'm sure to others listening in on us, what some of those capital offenses might be? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Boucher, that is true. Under current law a capital felony can be a sentence of death or it can be life in prison without possibility of release. This legislation would simply clarify that under the eight categories of crimes that would constitute a capital felony they would -- the penalty would be a mandatory sentence of life in prison without possibility of release.



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There are eight categories for such a sentence, and they include, in general: the murder of a correction officer or public safety officer; the murder committed for hire; murder by committed by one who'd previously been convicted of an intentional murder or a murder committed in the course of a commission of a felony; also murder committed by one who is under a sentence of life imprisonment; murder by a kidnapper; murder committed in the course of a sexual assault in the first degree; murder of two or people at the same time; and murder of a person under the age of 16 years.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Mr. President, I really thank the distinguished Chair for his thorough and detailed explanation.

Just a couple further questions on our current statutes. In a capital felony cases, is the defendant eligible for a jury trial or would a judge preside over this particular case? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

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Thank you, Mr. President.

Through you, it is a question for a jury to decide.

SENATOR BOUCHER:

Thank you, Mr. President.

One further question, an important aspect of our -- of our current statutes has to do with aggravating factors. I wonder if we could have some clarification on those aggravating factors if -- if we could?

Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, through you, are also eight aggravating factors that are outlined in current law that are currently weighed against mitigating factors but they tend to -- the aggravating factors tend to relate to the nature of the commission of the crime. The most commonly discussed factor is that the crime was committed in a specially heinous, cruel or depraved manner, but there are eight separate factors.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

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Thank you, Mr. President.

Two further questions, through you, Mr.  
President.

What are the automatic bars to the death penalty?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

There are currently five factors, which would be an automatic bar to the imposition of a death penalty. Under state law, they include that the defendant was under the age of 18 at the time of a crime; that the defendant was mentally retarded at the time of the crime; that the mental capacity or the ability to conform his conduct was significantly impaired at the time of the crime; that they -- that they -- they're guilty of a capital felony only as an accessory and had relatively minor participation in the crime; or that they could not have reasonably foreseen that the conduct in the course of committing the crime he was convicted of would have caused someone's death.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. That's extremely

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helpful.

And, then, finally, my last question. Given that we talked so much and have discussed the appeals process in this case to such a degree that this is seen by some as a very good thing, a lengthy process could take up to 20 years, or a bad thing that it does delay the process and is very costly.

I wonder if the good Chairman wouldn't mind explaining a little bit more about what that appeals process would be if someone were in this particular situation? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Boucher, that answer is not easily provided because, as we've heard, some of these cases have been in the appellate system for more than 20 years. So it certainly can take many twists and turns as it does, and, as our Constitution, as it's interpreted by the courts requires. But, in general, after a sentence of death is imposed, then there is an automatic appeal to the Supreme Court and that process is the process that we've been talking about this afternoon and this evening.

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THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

And I thank the Judiciary Chair for his answers this evening -- it appears to be.

Mr. President, I have thought long and hard on this change in policy, and I've only come to a decision just this week. It is a very, very difficult one for all of us, and I'm sure the public wouldn't like to be put in this position, as well. But, in weighing all the issues surrounding this bill, I have to fall on the side of the public and the law enforcement community. Some of which serve with us right here in this chamber, those that have to face the danger of losing their life on a daily basis.

If keeping this bill -- this language, as we have it right now, and keeping the death penalty in Connecticut deters just one person from putting a gun in their face and pulling the trigger, I think I could live with the vote that I'm about to make.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Boucher.

Senator Coleman.

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SENATOR COLEMAN:

Thank you, Mr. President.

Mr. President, I rise to support the repeal of the death penalty in the State of Connecticut and to replace it with life imprisonment without the possibility of parole. And, in rising, I'd like to associate myself with those remarks that were made by Senator McDonald and Senator Looney and all of those others who spoke in support of this bill.

In fact, Mr. President, I'd like to congratulate all of the members of the Senate who spoke and participated in this debate on the civility and the thoughtfulness of this debate. It's a subject matter that, I think, has been treated appropriately, respectfully this evening.

Mr. President, I have to confess that there are and have been times when I felt less proud about my country than other times and less proud about my state than at other times.

I recall as a youngster feeling immensely proud when this country landed a man on the moon. And, every four years, I feel immensely proud when athletes from this country compete and win gold and silver and bronze medals, but I feel even proud when they don't necessarily win a medal but they demonstrate a good

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character and competitive spirit in competition with other countries and athletes from other countries.

Most recently, I felt tremendously proud when the people of this country selected a candidate to be president of this country based upon the content of his character rather than the color of his skin.

There've been few times when I felt less proud, Mr. President. Most recently when it appears that officials of this country endorse policies regarding torture, and, when I learned that, it sort of called to mind the date and the circumstances and the feeling I felt when this State sponsored the last execution of an individual. It seemed to me to be state-sponsored murder, and I have always been concerned how we can tell people that it's wrong to murder and then sanction the taking of a life.

I feel badly for her, my good colleague Senator Handley, because she tells me that this execution occurred on her birthday and she explains that there's been a pall cast over what should be a celebration for her.

This country of ours, this state of ours has some ideals and some values that are uplifting and inspiring. And I think that we ought to endeavor to distinguish ourselves from places who have less

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respect for human life, places like China and Iran and Saudi Arabia and Pakistan and some others. I think that we ought to endeavor to associate ourselves with some of the more enlightened and the more compassionate governments around this country.

One of the things that has always confused me in this debate -- I think we all agree that justice requires that a person who commits murder, a person who takes a life ought to be severely punished. But I always get this sense that for the proponents of the death penalty, that it's almost as if the choice is it's either if they don't get the death penalty then it's just as if they're going free. The perpetrators are being set free. There's no punishment at all. And I disagree with that because I think that life imprisonment without release is a very fair and a very severe punishment for that kind of offense.

Even though there have been assertions to the contrary, I think, there's so much evidence to indicate that the application of our death penalty is uneven and imbalanced, so much depends on what geographical location you're arrested and tried in, so much depends on whether you're a minority person or a poor person, so much depends on what class you hail from, so much depends what color, ethnicity and race



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the victim of the crime may be.

Probably, the most disturbing thing to me is the fact that, as good as our system may be, it is not perfect and it is not infallible and we don't need to look any further than what has happened with James Tillman and Miguel Roman to understand that our system is not perfect. And, in those two cases, and there are probably more, we came very close to making a tragic mistake.

Especially when you consider that Mr. Roman's crime could have qualified for the death penalty. His victim was a pregnant woman or the victim in his case was a pregnant woman and there was kidnapping involved. Fortunately, appropriate justice was done. It was discovered that he was not the one that actually committed the crime for which he was tried and convicted and sentenced.

If our system was perfect and we could guarantee that an innocent person would not be executed in the State, then I would be more likely to perhaps side with others who feel that we need a death penalty, but our system is not perfect. And we come oh so dangerously to close, on occasion, to convicting and sentencing and, heavens forbid, actually, executing people who are actually innocent.

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So, Mr. President, I hope that my colleagues around this circle -- and I know that they do, give thorough consideration to how we can be the best that we can possibly be, how we can live up to our ideals and our values, and our respect for human life. We can take a significant step in furtherance of those values and those ideals if we do away with this uncharacteristic punishment that is on our law books.

Mr. President, I hope we take that step this evening.

Thank you.

THE CHAIR:

Thank you, Senator Coleman.

Senator Guglielmo.

SENATOR GUGLIELMO:

Thank you, Mr. President.

First of all, I'd like to commend Senator Williams and Senator Looney for going forward with the debate. I don't think we've done this in the Senate in the 17 years I've been here. I think it's an important debate for us to have. So many of the issues we discuss here effect such a narrow, small portion of the people, but this one has a broad interest, and I think it's -- the people should know where we stand on the issue so I commend the majority

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party.

I do have a quick question for Senator McDonald,  
through you, Mr. President?

THE CHAIR:

Senator McDonald, prepare yourself.

SENATOR GUGLIELMO:

Senator, do we have a plan for these ten inmates  
that are on death row, assuming this passes tonight  
and is signed into law? And is there a transition?

SENATOR MCDONALD:

Thank you, Mr. President.

And, thank you, Senator Guglielmo for the  
question.

And it affords me an opportunity to reiterate  
that this legislation is prospective only, would only  
apply to any crimes that were committed after the  
effective date of the -- of the legislation and would  
not in any way modify the sentence that was already  
imposed for any of the ten individuals who are  
currently on death row and would not apply to the  
cases that are currently being prosecuted or any cases  
that might be prosecuted before the effective date of  
the legislation.

THE CHAIR:

Senator Guglielmo.

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SENATOR GUGLIELMO:

I thank -- I thank the Senator for that information.

You know, it's been said here tonight that life in prison is a harsher penalty than the death penalty. And, you know, I have a little history that the staff put together of the ten that are on death row. And I would have to say that, in my opinion, that's probably not correct because the only one who's asked to be executed was Michael Ross. The others could drop their appeals, as well, if they considered the death penalty to be less harsh than the confinement that they currently have so, obviously, they haven't done that so I would say that's kind of the proof, at least in my mind that while life in prison is not a good thing, death is even less appealing to them.

I don't think there's too much doubt that the ten that are on death row are guilty. I think these are the worst of the worst, and when you read the histories, and I won't do it. Senator Boucher read some of them. They're pretty horrific. I'm concerned that when you do away with the death penalty, there are others that are those coming along who -- some recent murders at Wesleyan and Cheshire -- look like people who would fit the description of those that

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would be put on death row. And my concern is, you put them in the general prison population and they are an extreme danger to the corrections officers, to the doctors who serve them, the teachers to go up to educate them, to the counselors and to fellow inmates.

I visited the prisons many time -- as many times as Senator Kissel. I have many -- because I'm so close the prisons, our district, I have many corrections officers in my district. Many of them have served on death row, talked to these inmates that are on death row and the point is that if these folks who are the worst of the worst are in the general prison population. And I have visited, there's -- believe it or not, a fair amount of freedom within the walls of the prison. They go -- they walk to the cafeteria. They have jobs at the metal shop and the carpentry shop. They have the gymnasium. They have the library. And the correction officers want this. Don't get me wrong. They want this because they feel it elevates the tension and makes the inmates less apt to be violent. So I don't begrudge that part of it, but my concern is the type of danger they are to the staff. When you have somebody who's already killed and killed in a most heinous way and in a premeditative manner, that's a pretty frightening

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thought. That somebody would think about and plan for the elimination of another human being.

You know, I used to do a cable access television show, I had different guests on, and I had Mike Mittey on one time. Mike was the president of the corrections officers unit -- union. Best guest I ever had, most interesting guy. Came on and he had a suitcase and in the suitcase were all the weapons that had been confiscated from the inmates in one or two cell blocks -- I can't remember -- and in one or two shake-downs. So it wasn't over a long period of time. And these were ingenious. Let me tell you. Some of these people have talent. They put together weapons that are exceedingly dangerous.

I saw in Mike's little bag of tricks, a toothbrush and on the end of the toothbrush is sharpened metal that is taped and it used to go after someone's neck and face of a fellow inmate or a corrections officer. They had actually weapons that were made totally of plastic because those would go through the metal detector so they would get hardened plastic from one of the shops and sharpen it up and so they wouldn't be detected by the metal detector. One was as long as a sword. It was a piece of the -- they had taken out of the aluminum -- not of the aluminum

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but the blind so that you twist -- that solid plastic that sometimes is on blinds. You twist it. It could be this long and somehow when they were having counseling or into see the doctor or whatever, they ripped this down, sharpened it to a sharp point. It was this long, sharp as a sword, could penetrate an entire body of a person.

So these are ingenious and dangerous people and, at the end of the little interview, I asked Mike -- I said would it be safe to say that the only unarmed people in a correction's facility are the corrections officers? And he said, yes, that'd be fair to say.

So, I guess, I don't know why we would want to endanger the life of staff and other inmates with -- by having people of this ilk in the general prison population.

You know, I also read the book that Senator Duff mentioned by Scott Thoreau. It was sent to all of us, as I recall, when we were going to have the last death penalty debate by the author himself, I believe, and I read the book and I pulled it out, same as Senator Duff did prior to tonight's debate. And I'm sure I could get examples just like this from Connecticut but it happen to be in the book and I was able to get it in time for this debate but I'll give you an idea.

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There was a fellow in Illinois state prison named Henry Brisbon. He was a multiple murder -- murderer, sentenced to murder. He killed another person within 11 months after his incarceration. He and several inmates grabbed a corrections officer, locked him in his cell and then beat another inmate to death. He lead an escape a few years later, which resulted in the assault and near death of two more corrections officers. He stabbed two inmates over the period of time. He stabbed a corrections officer. He hit another corrections officer with a wooden plank hit another one with a 38-pound weight. He had 250 disciplinary tickets in the period of time he was in there.

These are the worst of the worst. These are people that never mind cannot be among us in regular society, they cannot even be in the general prison population. They're too dangerous for that kind of an atmosphere. So I would say to you this that -- oh, by the way, in reading the book, as I recall, that commissioner of Illinois did not eliminate the death penalty. They limited it, but they did not eliminate it after all those months of study.

So, I guess, what I'd sum up with is that there's something called moral proportion and the death



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penalty is the ultimate punishment for the ultimate evil.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Guglielmo.

Senator Handley.

SENATOR HANDLEY:

Thank you, Mr. President.

I rise in support of the bill that's been presented before us, and I, again, thank Senator McDonald and the leadership of the Senate for giving us this opportunity.

I've been a long time opponent of the death penalty -- of the use of the death penalty because I believe and have believed for a very long time that what is meted out in the death penalty is not justice; that it is an old and very tired form of retribution that in most cases has disappeared from the industrial world, but I do recognize that the ability -- the State's ability to take a life is an awesome power. And, simply by passing such a law as we would tonight, we don't really end that power because as happened in the past we can take it back. It is within the power of the State to do this. I think we should not do it, and I hope that we will give up this power that we

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have at least for the short time, but I would like to speak to the issue of people who do believe the death penalty is a form of justice. That it is right.

I think, all of us understand that for justice to be -- for the administration of justice to be real, it must be -- it must be equally dealt out. It must be certain, and, if all goes well, it should be swift. None of these characteristics approach the death penalty as it's handled in the State of Connecticut.

Senator Guglielmo talks about the worst of the worst being the folks who are on death row, at least I think, that's what he meant. The interesting thing is that the folks who are on death row, we know committed -- or at least have been convicted and are fairly confident, committed some pretty horrific crimes, but there are people who have committed equally awful crimes who because of a decision of a prosecutor or the decision of other folks are not on death row.

And, in fact, the best example of this from my perspective is Michael Ross's case itself. Michael Ross committed serial crimes, as we know. And in the New London jurisdiction, he was convicted of a crime -- of a crime and was sentenced to life in prison. In the Waterbury jurisdiction, for the same crime, by the

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same guy, he was convicted and sentenced to death.

There are enormous numbers of people who have committed crimes virtually as awful as the folks who are on death row. This is not equal justice when this happens. We know very well that the folks -- that the decision to go for the death penalty, to charge the death penalty has much more to do with the race of the victim than anything else. If a victim is white, the chances of a death penalty -- a capital charge is much greater than if the victim is black or if the victim is of another -- another ethnic background. The perpetrator's race and ethnic background is of secondary interest, but it is the victim's background, the victim's race. This is not equal justice.

We know, also, that there aren't very many poor people -- I mean, I got it wrong -- there are very few rich people on death row. The ability to hire fine lawyers to put together, as happened a few years ago out in California, a dream team of the greatest lawyers in the country will get people off a capital charge in a way that a poor person using even the great efforts of the public defenders and the legal aid folks, whom we have in this state, whom we're putting together money to try to keep working, is not the same as having millions of dollars to support a

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charge.

So for those folks who think that the death penalty is a reasonable form of justice -- 'I don't think it is -- but if you do, I would ask you to realize that virtually everyday when we're in here -- I mean everyday -- we're not always all here at the same time -- we pledge liberty and justice for all. And the death penalty does not provide justice for all. For this reason, I urge our vote in favor of this motion -- of this bill.

[SENATOR COLEMAN OF THE 3<sup>rd</sup> IN THE CHAIR]

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

I'll start off by saying a -- reflecting on a comment by Senator Gomes that this is about justice not just about just us. This effects every individual in the State of Connecticut, and I can relate to some of the colloquy that Senator Gomes talked about in his opening remarks as a young child, growing up in the city and the treatment that he might have received because the color of his skin.

We know that is no longer the case in this state. We know that the justice system is meant to be fair.

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It's based on a scale, an even scale and this scale doesn't have a Republican or a Democratic mark on it. We talked a lot about the best -- the worst of the worst and the best of the best. And I'm not so sure that I would put those comments on any individual because when I look at things, I look at things on an individual basis and I make my determination based on that solely.

Senator Coleman had mentioned murder begets state murder and that's what would happen if we move forward with the death penalty and how can a State sanction committing a murder if they're being punished for doing that same acts. When I say to you, if someone is charged with kidnapping and holding somebody against their will because they cannot escape. If they are found guilty in a court of law, they're being held against their will in a correctional facility. It's the same logic, the very same logic.

Someone in our society or something has to be responsible for maintaining order; otherwise, there would be chaos and anarchy. We've evolved from that system. We've evolved so much that I believe, race and ethnicity no longer has a part in our justice system because Lady Justice is blindfolded. Those two factors should not come into play when making a

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determination of guilt or innocence.

And I think the fact that Senator Handley brought up a case out in California may not have something to do with money but with celebrity status. We often see those in the news often, time and time again, and that's not right. That's wrong. But I believe if we remove the provision of offering a death penalty, we remove a tool out of the toolbox. It doesn't have to be used. As a matter of fact, we must prove doubt -- proof beyond a reasonable doubt that the person is guilty and they have to be found guilty by a jury of their peers.

Senator Guglielmo brought out a good point about shanks in prison. Those plastic toothbrushes that are sharpened down to a fine point called shanks. And we talk about deterrence and how can we measure deterrence? Well, those folks that are in the correctional facilities are put there because they committed a crime, but, yet, being locked up in a correctional facility has not deterred them from committing a crime. In fact, they even commit murder in prison so being locked up does not deter crime. There's gambling going on, drug usage. They're ordering hits from within the prison facilities, harassing individuals. In fact, the mailrooms in the

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prison have to go through the mail to make sure that they're not contacting victims and making threatening and harassing remarks to those outside the prison walls. These things happen and just because they're in a correctional facility doesn't mean that they won't.

How do you put a price on human life? Well, I've heard tonight that the price is approximately 90 to 94,000 dollars a year to keep somebody locked up on death row. Well, that's putting a price on human life. If you asked anyone of those victims' families -- do you believe your loved one is worth \$94,000 a year for X amount of years? They'd tell you there's no price that could be paid on that person's life. And I'll use Michael Ross as the example. We no longer get a bill for Michael Ross. That \$94,000 a year has stopped. Yes, it costs the state -- I heard in the debate earlier, \$360,000. Well, if that were the case, I'm sure Michael Ross would have lived a lot longer than four more years from now so we'd still be paying for that.

I'm going to close my comments with stating that we shouldn't remove the tool of offering the death penalty because when it gets to that point in the court house, the families have a say in that.

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I had the unfortunate measure because of my job to investigate a murder in my hometown about a decade ago and this person stalked this one woman down along the reservoir. She was out going for a nice walk and the woman got spooked by this gentleman that she always saw him walking around the path several feet behind her so she changed her routine, said I'm not going to go down there anymore because this guy keeps showing up. He's giving me the shivers.

Well, unfortunately, that message didn't get out to everybody that walks along that path and one morning Mrs. McDonald was out walking along that path with her dog. She never showed back up at the house. So the housekeeper went to where she knows that Mrs. McDonald walks and the only thing that came back was the little terrier dog so she knew something was wrong because Mrs. McDonald would never leave her dog alone. So she called the police and we began our search. And, unfortunately, we found Mrs. McDonald in the woods a couple hours later and she died of the wounds afflicted upon her by this young man.

They went to court and he was found guilty. He actually confessed to the crime so there was no question as to whether or not this individual did it. But the family made the decision because the



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prosecutor had offered to go for the death penalty but the family had made the decision that they were traumatized enough and they asked the prosecutor for life in prison without the possibility of parole. And the prosecutor accepted that and said then that's what we'll go for, but, in this case, justice was served and it met the wishes of the family, and they were able to have closure based on that. But there are families out there that would like to see the final act of the death penalty imposed, and I think we owe it to those families to have that say, as well.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

I stand in opposition to the bill, and I'm hoping that this is by far and away the most difficult issue that we will all face as a legislative body this year. We're not talking about a tax credit. We're not talking about street signs. We're not even talking about tolling here tonight. We're talking about something that's far more profound and -- and causes each and every one of us in our own individual ways to

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dig deep into our souls and ask ourselves a lot of very difficult questions, versus the back drop of very established legal system and court system within our own State of Connecticut.

I do want to thank Senator McDonald and Senator Looney for bringing this up for debate this evening or this afternoon -- starting this afternoon because it really does prove that we are civilized. The death penalty is still very much on the books here in Connecticut, and, if we did not debate this, I think people would raise an eyebrow and say, they're not even going to consider what the merits are of either maintaining it or losing it.

And, if this bill does not pass, I would suggest that we, in fact, do bring this up every year. So that we can continue to debate it, new thinking occurs, new technology comes about as a result of advances in criminal -- in criminal -- in the area of criminal science, and so on and so forth.

I think -- I think anybody who is against this bill is -- is digging deep and they're saying to themselves, we're not parading this concept around. We're not trying to enforce something that is completely, completely uncivilized. What we're doing is we're saying this is the ultimate last resort for

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an absolutely heinous crime with circumstances that are so totally beyond a reasonable doubt, in terms of one's guilt in their complicity, or their actual accomplishment of a murder or whatever the set of murders, whatever the case might be.

So, I think with that, I stand against the bill.

I do have a couple of questions for Senator McDonald, if that's okay? Through you, Mr. President.

THE CHAIR:

Please proceed.

SENATOR FRANTZ:

Okay.

Senator McDonald, you mentioned that -- that life in prison, in your judgment, is tougher than the death penalty. I believe we have, approximately, 47 in prison for life at this point. Do we have an idea of what the number of suicides is amongst that group?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, none of the 46 who are there have committed suicide. If that's the question?

THE CHAIR:

Senator Frantz.

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SENATOR FRANTZ:

Thank you.

And, to your knowledge, during the last three, four maybe five years, have there been any suicides amongst that group of people?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Not that I'm aware of, through you, Mr. President.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you.

And just for my own edification maybe some others around the circle here tonight, of the, I believe it's ten on death row now, are each and every one them looking to commute their sentence currently?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, each of those appeals, which are mandated appeals straight to the Supreme Court, are still active appeals.

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Senator Frantz.

SENATOR FRANTZ:

Thank you.

It's always been my feeling when we're looking at proposed legislation to look very hard at the data to make sure that we have the right kind of data, the kind of comprehensive data that's going to give us wisdom, in terms of making the right choices on these respective bills.

With some of the data that you were using before, Senator McDonald, about the rate of homicides in states that have the death penalty or might not have the death penalty. Do we know what sort of -- did they do regression analysis? Did they take these numbers and do anything with it other than just take the raw numbers and put them into a chart?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, there are numerous studies that have done -- well, there are academic studies. There are think tanks that compile raw data, but there's also studies that have done statistical analyses of the type that you're talking.

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Senator Frantz.

SENATOR FRANTZ:

Thank you.

That's a reasonable answer.

It's been said before tonight so I won't go over it again but the -- some of the raw data that's out there, I think, is subject to one's own personal interpretation. It's a little less than scientific. It appears to me in any case. So I think we do have to be a little bit careful about that to make the adjustments for geography within the 50 states in the United States of America and a variety of other circumstances that might enter into that -- that picture, which would cause you to come conclusions.

Another question, through you, Mr. President?

THE CHAIR:

State your question.

SENATOR FRANTZ:

Thank you.

If you write about life in prison being, in fact, a more harsh penalty than the death penalty, does it -- does it, in fact -- does it, in fact, really save money? I think that's a question that has been raised before, and Senator Witkos addressed it, but I'm just wondering if in your judgment, if we passed this bill

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tonight as a body and we end up with everybody on death row, at this point, ending up in prison for life, aren't -- aren't we still going to end up with the same number of appeals? Never mind the cost of housing and feeding, and so on and so forth, but aren't we going still end up with the same number of appeals, which ultimately cost the state, the taxpayers money?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, that isn't an easy question to answer because, obviously, each case is different. There are individuals who are serving life without possibility of release who have gone to trial. There have been people who have pled to that so the costs associated with those cases vary substantially.

I can tell you that -- that the -- that the public defender's office has an entire unit dedicated to just capital crimes. That the -- that the state attorneys have specialists in these areas that dedicate extraordinary amounts of their time to death penalty cases.

I believe the fiscal note indicates that,

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ultimately, we would be able to save -- again, I don't hold this out as a prime reason to vote for the legislation, cost not being a primary consideration, but the State would save about \$4 million a year, ultimately, after the current cases are litigated in present dollars. And that the -- that the time line, I should say, for -- for resolving the cases where people are sentenced to life imprisonment without possibility of release, in many instances, is much shorter than the cases per individuals who end up on death row.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you, for that answer.

The name Charles Manson comes to mind when I think about this issue. It's not something that I've thought about as intensively as I have in the last couple of weeks here knowing that this could very well be on the agenda one of these days. And I just wonder -- I'm not going to ask you directly, Senator McDonald, or anybody. What the cost to the state, to the taxpayers in California for the incarceration of Charles Manson has been, but I know it's been a darn long time. I remember reading the book in the late



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1970s, I think it was Helter Skelter and that was a long time ago. I know that he's had numerous appeals. He's been up for parole at least two, maybe three, times now, and I can't imagine that the cost being minimal with respect to the -- that specific case.

What I'd like to do is just wrap up by saying that we might be better off if, in fact, you believe those numbers or if you're a little more skeptical about those numbers. Aren't we better off focusing on the system that we have? If we have a death penalty that is used extremely rarely and for extreme cases for absolutely heinous crimes, like some of the ones Senator Boucher was talking about before and Senator Guglielmo was talking about before. These are really, really bad people. The vetting process is intense. We know it all goes on forever, and it is very expensive as we have learned tonight if not before. I'm just wondering, shouldn't we be focusing our efforts on making sure that is a more decisive, more efficient and straightforward system?

Senator Looney said something interesting earlier about the possibility of error within the courts. There's a certain amount of subjectivity. There's no question about that. I agree with you wholeheartedly. However, I think what we're doing is we're talking

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about cases here tonight that are so far beyond a reasonable doubt in terms of who was involved and who did what. Given the number of death sentences here in the last few years, the last decade even, I think, most of those cases -- and I have to check them carefully to make sure this is a valid statement -- but I would guess that those are very cut and dry cases.

I do disagree with Senator Looney when he does say that perhaps the other side has used the argument that government is not necessarily the best -- the best organization to enforce or run a business or do whatever. There are many cases of that. There's no question but using that same logic to say that the government should probably not be in the business of sentencing people to death, I think, maybe taking it to just a baby step too far because I think there are other components in the judicial process.

Not being a lawyer and, hopefully, not having to learn too much more about the judicial system -- what I think exists is that you have a jury, in most cases. You have a jury of peers. You have judges who are well qualified. They went through a vetting process themselves. And it's a very laborious process, as I understand it, to go through all the evidence, to look

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at all the facts and circumstances and with all the modern advantages of technology these days, I think we can reduce the chances of error in any of these different cases to the point where everybody can feel darn near 100 percent if not, in fact, 100 percent that we've got the evidence, and we're not going to consider doing anything, like impose the death penalty, unless we're at that 100 percent threshold.

With that, I stand in opposition, and I'll wrap it up.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Frantz.

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President.

Mr. President, for years and years and years, I supported the death penalty. My neighbor's granddaughter was one of Michael Ross's victims. It just about destroyed her life, and I thought to myself, you know, somebody who would do something as heinous as that shouldn't even deserve to enjoy a cup of coffee, or see the sun rise, or have any of the basic simple pleasures of life because if you're going to take somebody else's life, you shouldn't live to

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enjoy whatever life is there for you.

So, for years, I was a very strong supporter of the death penalty and then when -- even though Michael Tillman wasn't sentenced to death but he spent 20 years in prison for something he didn't do, I began to think, you know, how many mistakes the judicial system makes, and I began to think from what I had heard that life in prison without parole was a worse punishment than the death penalty.

And now I am so disturbed by what I heard Senator Guglielmo say that -- I really -- through you, Mr. President -- want to ask Senator Guglielmo where that information came from that people who serve life in prison without parole are able to go to the cafeteria, was what you said? They're able to -- they go to counseling. They go to classes.

And I'm thinking to myself, you know, is -- if this is real, do I want to let people who commit such terrible crimes escape the death penalty and have the pleasures that Senator Guglielmo is saying that they have?

It's making me re-think what I based my decision on to change my mind that maybe the information I had was wrong if what you have said is the way it is, than I am truly disturbed in changing my mind to avoid the

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death penalty.

So, through you, Mr. President, I want to ask Senator Guglielmo, who is a dear friend of mine, where that information came from that people who are serving life in prison have those kind of pleasures?

THE CHAIR:

Senator Guglielmo, if you care to respond?

SENATOR GUGLIELMO:

Yes, thank you, Mr. President.

Thank you, Senator Prague.

Well, the -- years ago -- and I don't think it's changed -- I went to the prison for a sport's banquet. And I was a friend of the athletic director, Dave Musco from Somers and he invited me up and they gave awards. They did it in a cafeteria, you know, at the prison and they had the prison band playing when you went in and I'm not saying it was a pleasant place, don't misunderstand me. It was a little intimidating but we went up to eat at some point in the dinner and I was talking to a young guy who was pretty articulate and he was a heavyweight boxer that they had in the prison because they had boxing in the prison. So I came back to the table and I was talking to -- he's an attorney from Enfield now, Tyler -- I can't remember his first name. He was an assistant athletic director

at the prison, at one point. So, I said to him -- I said, well gee, that young man is pretty nice young guy. He's pretty articulate. Well, he said, yeah, he's a sweetheart. He said he gunned down two people with a shotgun. So he was within the prison population.

To my knowledge there was no prohibition -- and I could be wrong and if anybody's in the circle has information different than that, I'd hope they'd stand up and say so. I don't believe there's any prohibition for somebody who's a convicted murderer to stay in segregation. They are in the prison population.

The people who end up in segregation are people who misbehave when they're in the prison system. Those are the people they segregate from the others, who assault other inmates, who assault corrections officers, who cause those kinds of problems. So those are the ones that end up on the super max or the ones who are gang leaders will end up in a super max. But, to my knowledge, and, again, I invite anybody to stand up -- Senator McDonald, if I'm incorrect -- I don't believe that there's any automatic segregation of people who are convicted of murder. They can work their way by good behavior into the general prison

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population.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Prague.

SENATOR PRAGUE:

Well, Mr. President, through you, I'd like to direct a couple of questions to Senator McDonald?

THE CHAIR:

Please proceed, ma'am.

SENATOR PRAGUE:

Through you, Mr. President, Senator McDonald, to your knowledge, if somebody has committed murder and they're sentenced to prison for the rest of their life, what kind of an environment do they spend the rest of their life in?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

And, through you, Mr. President to Senator Prague, I appreciate the opportunity to answer the question.

Somebody who is sentenced to life in prison without possibility of release is automatically

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transferred to a super maximum prison. In general, that inmate would spend, approximately, 23 hours a day in that prison unless they had a reason to be out of that cell. If they are out of the cell, they are generally -- well, they aren't generally. They would be under supervision if they are moving outside of the cell. There can be reasons if they're going to counseling or something like that why they would be out of the cell, but, as a general proposition, they spend almost the entire day in a prison cell in super maximum security, always under supervision.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Mr. President, through you, just one more question to Senator McDonald?

THE CHAIR:

Please, frame your question.

SENATOR PRAGUE:

Thank you, Mr. President.

If I'm understanding you correctly, Senator McDonald, these people who have committed murder, who have taken somebody else's life and, for that, will be spending the rest of their life in prison, don't have the opportunity to socialize or to mingle in the



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cafeteria and enjoy those aspects of prison life?

If I am going to say that staying in prison for rest of your life is worse than facing the death penalty, I have to know that staying in prison for the rest of your life is a situation wherein that a murderer doesn't have good times, doesn't have pleasures, doesn't socialize, and I need to hear from Senator McDonald if that is so?

THE CHAIR:

Senator McDonald, would you care to respond?

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, Mr. President, to Senator Prague. As I indicated, with the exception of people who are on death row, nobody is more highly supervised. Nobody is more restricted in their movements. Nobody is more closely confined than somebody who is imprisoned for life without possibility of release. That is not to say that they never come out of their cell. There is time to be -- there's time for them to exercise for an hour a day. That's true for people in -- on death row, as well, and they can come out of a prison cell if they are under escort or super direct supervision of prison guards. They are not socializing in group settings and that type of thing.

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They may have a meal in a dining facility, but it's not as though they are walking out of their cell and just strolling down to the cafeteria to grab a bite to eat. That is absolutely not the situation with these prisoners.

Through you, Mr. President.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Through you, Mr. President, thank you, Senator McDonald.

I know that you know the mistake that was made with Michael Tillman was horrendous. And my sense is that our justice system makes mistakes and to sentence people to death is not a mistake you can undue so I have some thinking to do before I press this button.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, first, I'd like to just comment on some of the discussion that took place.

I did tour, the last time I think there was some

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discussion about getting rid of the death penalty. I did take a tour of the maximum security prisons. In fact, the tour that I went to -- the individual by the name of Robert Breton, who was sentenced to death in 1989, was convicted of two counts of capital murder for beating and stabbing his 38-year-old wife and their 16-year-old son.

Mr. President, I -- when I went to that facility, I went with several staff members so I could have an understanding of the incarceration and what took place. And a few things were interesting. A few things were relatively interesting to me as I toured the prison.

One was -- and it made sense to me, frankly, one was the guards that were there indicated that they have a different system -- social system within their prison. In that, what the prisoner did outside to get in here was not relevant and that makes sense to me because their society in their prison, the guards, have to have a different society. And they say, look what they did out there that landed them in this prison is relevant in terms of safety -- no question about -- but it's not relevant in terms of how we treat the prisoners. If they act like good prisoners in our system, that's the society we want to build on.

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That makes sense to me

And the reason why that question was posed was, as I mentioned, this prisoner who's sentenced to death is Robert Breton, who killed his wife and his son and they showed me his cell. We walked into his cell. He had a TV. He had some magazines. His cell door was open so we proceeded inside and they described the stuff they could have and what they can't have in the cell.

We then toured the rest of the facility. We went to some outdoor stages where some of the prisoners go. We went to the library. When we got back about 45 minutes to an hour later that prison cell was still empty. So I asked where he was? And they indicated to me that he is a very soft spoken, clean individual, in terms of orderly, and he was in charge of the library and he was in charge of dispensing the books then collecting the books.

And, in fact, he was one of the main keepers of their library. He had done such a great job, he was one of the folks who they would count on to keep that library in order. And, although that struck me as kind of odd because I was under this understanding that one hour a day that they would be out -- they being these people, capital punishment -- and the

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answer was no, no that is our system. However, we got to treat people within the system differently than you think of it because it's our own society in here. And if somebody is good and someone's a model prisoner, we recognize that -- other rules, just other rules.

And I went there purposely for this mission, to find out what it was like and probably what I didn't do is then return but (inaudible) and they talked to me about the length of time for which the people take showers. They're limited.

And I said, well, how strict are you on that? Well, we're not that strict. If it someone who is a prisoner, who is a good prisoner who plays by our rules, we are going to work with them. That makes sense to me.

In the society for which these guards work that makes sense to me. So when you look at that, I want to be clear that the image that, perhaps, I had for myself and I brought four or five staff members with me from our side so that they can look at it as well -- actually, they volunteered to come with me and we spent -- we toured three prisons, and we spent almost a day up at three prisons.

I also just want to talk very briefly about "The Ultimate Punishment," which is a book that was

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mentioned by Senator Duff. You remember what the framework of that book was, and it's very interesting if you could read it. The framework of that book was what reforms, if any, would you make for the application of a death penalty? In that for the State of Illinois that it'll be fair, just and accurate?

And that was the mission of the commission put together by Governor Ryan and this gentleman apparently was asked to be on that commission. And they looked at issues, and what's amazing about what they looked at was the author of this book never comes to a conclusion. Each issue -- and I got to tell you if you read the book, I think he believes, he wanted to come to a conclusion that the death penalty is wrong. I really think when you read what his -- some of his thoughts were that's where he was going but as he looked at each issue. He looked at victims. He looked at it from all sides. He looked at whether or not it was fair with respect to race, whether it was fair with respect to economics, whether it was fair. And what he said was, there is no bright line that I could draw it and say, yes, because each case was so intricately involved in the facts and the different situation surrounding it that, in fact, no conclusion could be drawn.

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When he looked at the issue of cost that we've talked about in this chamber, he says that costs do not provide -- do not provide a compelling argument against. We don't look at cost. He doesn't think, from his conclusions, that that's something you should look at. He does side against the death penalty in some circumstances; for the death penalty in some circumstances. His ultimate conclusion is whatever we come up with, I'll honor and respect, and it was an opportunity to serve.

He came to no conclusions and that's, frankly, why Governor Blagojevich, who's no longer there, after Governor Ryan, said I'm going to keep the moratorium up because I want to make sure that the reforms that this committee came up with that were not enacted by the legislature, until those reforms are in place, I am not -- I am not going to allow the death penalty. It's on our books, but I'm going to moratorium on it because the answer is not simple.

And the answer he finds that it depends on how you look at it and what the facts and circumstances, but this was not a book about the death penalty philosophy throughout the entire United States. This was a book about Illinois. This was a book where it did not have the procedures that we have in

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Connecticut. It's not advocating it one way or the other and the reason why I'm bringing this book up, not to step on it or denounce it or anything. I think it's a good book. I think it's very eye opening in a philosophy type of sense, but I want to be clear to the circle. It was not a book advocating one side or the other. It's a book that talks about, here are the issues, none of which are black and white. None of which you can say, this is a positive, this is a negative and for all times and for all sake. It is a book for a state with a particular law that they had. And, until they do the reforms, they're going to have a moratorium on that.

Mr. President, I have more to say about this bill but now is not the time, now is not the time. But I do want to say is that this circle has engaged in many debates since I've been here that have been like this, a very substantive debate where it is very difficult issues that face us.

This is not, I believe, like many bills that we've debated or a handful of bills that we've debated. It is not a bill that someone can say, you're right or you're wrong. It is a belief. It is a conscience. And it's a difficult vote for each and every one of us around this circle. And what I



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respect most about this circle -- many Senators and I include myself in it -- sit and listen to the debate around this circle because everybody has a different view depending on where they were born, how they were raised and what they were taught and the lessons that they had in life, and it's all that that you need to take into account when you vote on a bill like this.

So the reason I don't want to talk more is because I want hear the rest of the debate tonight. I want to see the movement of the debate tonight, and I look forward to the input of this circle.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President, nice to see you there.

I've waited a bit to share some thoughts. I was very anxious to listen to my colleagues, many of whom I have not heard their opinions on this subject, even though I've sat through about eight hours of debate and public hearing in the Judiciary Committee and so those members of the Judiciary Committee, I had the opportunity to hear their thoughts on it back in March, I believe it was.

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And I came to the Connecticut Senate, frankly, with no idea that I would be debating the death penalty. I, frankly, thought that all of our energy this year would be budget related. In fact, I look at that clock outside the Senate Republican Caucus and I see that the red ink for the day -- today is 2 and a half million dollars so I really thought that was going to be the order of the session. And -- and I guess I was surprised by some of the other topics that have come up, but I honor this esteemed institution and the history that has taken place here. And my colleagues who have far much more experience in the legal field and in the history of such a very difficult topic that we face tonight.

I had a similar experience as my colleague from Norwalk, Senator Duff, who, frankly, came to the Senate not necessarily with a clear decision made on which way I would vote in the event I had the opportunity to vote on the death penalty. I was much clearer on other issues of criminal justice. In fact, last year I had the opportunity to meet Dr. William Petit and had lengthy discussions with him about his experience and, specifically, about Three Strikes Law that he was advocating for and I support. But the death penalty, frankly, didn't arise in those

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discussions. And it wasn't until I was given the opportunity to serve on the Judiciary Committee -- and I must admit as a banker, that's my professional experience -- to serve on the Judiciary Committee is a humbling experience because you are facing legal scholars. You are seated next to distinguished co-chairs of the committee who have a great deal of experience in the legal profession.

And, so the experience of serving on the Judiciary Committee is unique, indeed, for someone like me, and I mention all of that because I'm trying to just share with you the struggle that I've experienced in assessing where I am on the death penalty. And I must admit that on both sides of me, my friend Senator Gomes, who I enjoy speaking with on a nearly daily basis now and Senator Duff, seem to be on a different side of thought than I am on this but in both cases they had experiences and very important ideas to add to this debate. And I listened intently as I have with everyone else.

And it -- those who are in favor of this bill, which I'll get more, specifically, to the bill, which I -- I think, is not necessarily the right way to handle this. If that, in fact, is what the proponent is intending to do, but those who are in favor of this

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bill have the same passionate thought and feelings about capital punishment as those who are in favor of it. And, yet, I came to this circle without feeling very strongly about capital punishment. I had opinions about it, but I really didn't feel very strongly about it. And I will tell you that people that know me very well and know a little bit about who Mike McLachlan is, my upbringing, my faith, frankly, are a little surprised, I imagine, that I would entertain the thought of supporting capital punishment. And so I tell you all of this just to let you know that this, in fact, is always a challenge for me personally. But I know also that these kinds of decisions of an elected official as was clearly stated earlier today are a vote of conscience.

I believe Senator Meyer talked about the -- the way that we approach the decision may not necessarily be intellectual, but it is more that of a vote of conscience. So when I heard that that forced me to dig back into the files and reams of paper that I have accumulated on this topic over the last several months. And some people make fun of me because I have -- including my wife -- I have piles of -- of papers and testimony stacked up on my desk at home and in my office here at the capital. And -- and some

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sort of look at me funny because I -- I'm a bit of a pack rat on topics that I'm interested in, and, in fact, this is one of those topics that I've read an awful lot about.

So I want to share with you some of my thought process, and I must begin by two pages here that looks to be just a table. At first glance, it has names and ages and race and sex on it. Doesn't -- doesn't look like much. It's in alphabetical order by last name and it starts with Lazale Ashby, age 24.

Ashby was convicted of raping and murdering his 21-year-old neighbor Elizabeth Garcia in her Hartford apartment. The crime occurred four days after Ashby's 18th birthday.

My colleague Senator Fasano referred to Robert Breton, age 62. Robert Breton was sentenced to death in 1989, and he was convicted of two counts of murder and one count of capital felony for the beating and stabbing deaths of his 38-year-old ex-wife, Joanne Breton and their 16-year-old son, Robert Breton, Jr.

Jessie Campbell, the third, age 29, was convicted of a capital felony, murder, attempted murder, first degree assault and weapons violations for the shooting deaths in Hartford of 20-year-old LaTaysha Logan and 18-year-old Desiree Privette and the shooting of

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Privette's aunt, Carolyn Privette.

So that's just three and this list is ten, and, frankly, I want to read them all because it's -- it's -- I almost want to cry -- it -- it's disgusting.

Sedrick Ricky Cobb, age 47 -- now, I've heard this name many times and was sentenced to death in '91. The former deliveryman from Naugatuck was convicted of the rape and murder of 23-year-old Julia Ashe of Watertown, whom he kidnapped from a Waterbury department store parking lot.

Now, I knew that name because my dear wife Alicia is a native of Watertown, and that's where we were married. So that -- that was as close a connection as I got to one of these people.

Robert Courchesne, age 51, was convicted of capital felony by a three-judge panel for the deaths of Demetris Rogers and her baby. Rogers was eight months pregnant when she was stabbed over a \$400 -- \$410 drug debt. Her baby was delivered by emergency Caesarian section minutes after death, but the baby died 42 days later.

Russell Peeler, Jr., age 37, was convicted of ordering his younger brother to kill Karen Clarke and her eight-year-old son, Leroy "BJ" Brown, Jr., in their Bridgeport duplex. Now, I remember this story

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because living in Danbury and its close proximity to Bridgeport, we seem to have shared that story an awful lot in our local paper and -- and so I seem to follow that almost on a weekly basis after that happened. I remember the name Russell Peeler. The boy was expected to be the key witness against Peeler in the fatal shooting of Clarke's boyfriend.

Now, here's an unusual thing. And I guess this may be one of the reason why some people are asking us not to proceed with the death penalty because Peeler is the only inmate on Connecticut's death row who did not actually commit a murder, rather he ordered his brother to commit the murder.

Now, that's six. There's four more. I'll spare you, most of you already know the details -- no, I won't.

Richard Reynolds, page 40, a crack dealer for the murder of a 34-year-old Waterbury police officer, Walter T. Williams. While being searched by Officer Williams, Reynolds bumped against him to determine if the officer was wearing a bulletproof vest and then Reynolds shot Williams point blank in the head with a handgun.

So that was my entrée to a consideration of the death penalty in Connecticut was, I was trying to

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understand the population of death row, and I also read some of the other cases of individuals who are serving life sentences, indeed scary, very scary. And I can't comprehend how family members would deal with such a thing, but I had some experience with that and I'll share that with you in a minute.

So when I saw their desire of this General Assembly or rather the leadership of the General Assembly and, specifically, the Judiciary Committee, to bring forward changes to the death penalty, I wondered how often had this been considered in the recent past. And I'm getting some conflicting information on that part.

In fact, if you just search the State website, you'll spend hours trying to get through the reams of documents that are there but a brief synopsis appears to be that in 1991, there was an attempt to repeal the death penalty and it failed 55 to 89. In '93, it failed 48 to 99. In 1995, it failed 55 to 90, and, in 2001, where a two-year stay on any execution rather than a full repeal was proposed, it failed 71, 74. And there's been many changes to the death penalty law since 1980.

I can see that the General Assembly has seen fit to attempt to find the right way to make capital



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punishment in the State of Connecticut work. Now, it still remains to be seen if that can be done. I believe it can because they tell me that it is done elsewhere. I wonder now, not being a legal scholar, if we shouldn't be listening very carefully to those people, who are on the front lines, prosecuting for the State of Connecticut.

And so I looked at testimony from the Division of Criminal Justice at a hearing of the Judiciary Committee and written testimony it says that this bill, 6578, quote, Purports to abolish the death penalty only for capital felonies committed after its effective date. That is a fiction. In reality, it would effectively abolish the death penalty for anyone who has not yet been executed because it would have been untenable as a matter of constitutional law or public policy for the State to execute somebody today, who could not be executed for committing the same conduct after a date in the future.

If you'll indulge me just a moment longer as I understand our rules of this body is not to be reading other's testimony but this makes a point that the State could not seek the death penalty in any pending case that is presently eligible for the death penalty. And any death penalty that has been imposed and not

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carried out would effectively be nullified. So I guess that means that if this body sees fit to approve this and Governor Rell is willing to sign the bill -- I'm not sure she will. Newspaper reports claim she won't but that is her decision -- then that means that these ten individuals are no longer on death row. And I don't know who's going to be the one to tell Police Officer Walter T. Williams' family what happened.

Other proponents of this measure talk about savings -- money. Now, I must tell you that there was a pretty extensive discussion about -- in the Judiciary Committee, a discussion about cutting people loose early from prison to save money. And I saw just last night that in California, they are in desperate shape there, and they're considering thousands and thousands of early releases to save money.

Ladies and gentlemen of this circle, I will never, ever understand how any elected official could vote in favor of letting a criminal out of jail early so you can save money. That's the most absurd thought I've ever heard of. And so, with that feeling in mind, I just don't comprehend the -- we're going to save money if we don't prosecute killers for capital punishment.

Now, the Office of Fiscal Analysis, a nonpartisan

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body of the Connecticut General Assembly, issued a memo to Chairman Lawlor, who has been here almost all day, but he's not here now -- Representative Lawlor, talking about an estimated savings from the repeal of the death penalty, and there are numbers on here, but I don't get it.

This is a policy decision. It can't be a financial decision. This is -- we're talking about policy, public policy. And so, if, in fact, the total cost of a death penalty trial for Sedrick "Ricky" Cobb who was the deliveryman from Naugatuck who raped and murdered 23-year-old Julia Ashe of Watertown, whom he kidnapped from a Waterbury Department Store parking lot, if the cost of his death penalty trial, penalty hearings and appeals cost \$157,377. That's what it costs the state.

And, then, on the high extreme, we heard about Michael Ross, who's not even on this list because he checked out. That's another thing. I keep hearing he -- you know, he punched his own ticket. He decided that he was better off and so he stopped appealing and so that's how he was executed. His cost was \$1,073,922. Now, I don't remember all the details about Ross, but he killed a bunch of people. So it cost the state \$1 million to prosecute.

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How do you put a price tag on how much we're spending to prosecute someone who's killing people? I don't buy it. I'm sorry. I just don't buy it. It's not a valid argument. The Office of Fiscal Analysis, obviously, did a lot of work in this analysis, and it just doesn't carry any weight with me. I'm sorry.

A couple of other experiences that I've read -- now this is someone who I never met. And I have to read this because I didn't meet the individual personally and there's a fairly lengthy comment to the Judiciary Committee, but I'm going to just zero in on one paragraph so please indulge me -- one paragraph.

Beatrice Voltino describing what happened on Wednesday evening, September 25, 1996. Now where you were all of you on that night, September 25, 1996?

At about eight o'clock, a 17-year-old male armed with a 357 magnum and his 32-year-old partner enters with a plan -- enters the home, I guess with a plan. After some conversation, premeditation occurs. They were in my brother's home, after the signal, shots begin and my wonderful, kind brother is dead. A bullet entered the back of his head.

There are three other people, unfortunately, in the house, as they can identify him, they must be killed also. Wayne Burrows try to subdue the monster

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shot. Lynn Shunescky -- Schezenzsky is shot. My beautiful brave niece, she was in her room on the phone getting ready for a date. They did not know she was home but, upon hearing the shots, she opened the door, her demise, said a few words -- shot but not dead. The monsters notice Lynn is moving. She is shot again, dead this time.

I believe at this time they exit. One in the car they arrived in. The other in my brother's vehicle, running is the cowards and evil they are.

My 18-year-old niece crawled down the hallway over to her dead father to the phone and dialed 911. The dispatcher answers. She can't talk. Her last breath of air echoed in the courtroom. We hear her die. She just graduated from high school, her prom, and was saving and working to become one excellent and compassionate nurse.

Forgive me, colleagues, for stretching the rule, but we need to hear that. We need to see that, but let me now share a couple of really nice people that I had the pleasure of meeting and spending a little bit of time with who also experienced horrific, horrific, beyond comprehension, death.

Johanna Chapin is the sister of Dr. William Petit and she joined Dr. Petit at a public hearing of the

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Judiciary Committee to speak on this bill. She said she's against repealing the death penalty because she -- I believe that there must be personal responsibility in a civilized society. The death penalty is not about revenge. The death penalty is about justice.

She had other things to say, and I'll just share the closing comment.

Back in 2007, when the Parole Board decided that it was too expensive to get presentencing reports and sentencing transcripts, my brother Bill, lost big time. He lost his wife Jennifer, his two daughters, Hayley and Michaela, they lost their right to life. We all lost. We all got a life sentence.

Now, I must tell you that a couple of times when I've met, shaken hands with Dr. Petit, I walked away in awe, in absolute awe, trying to just grasp how does anyone deal with a brutal murder of a loved one. I haven't experienced it personally. I hope none of my friends have. I hope we don't ever have to. But I'll tell you the first time that I met Dr. Petit, spent a little bit of time with him, just a little bit. And I had already read all the stories, had read some of his comments before I met him, and he was advocating for a Three Strikes Law in Connecticut. And I remember

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leaving that meeting -- and it was about lunchtime. I didn't have an appetite that day. And I went home a little early and began a discussion with my wife about it.

And sharing with her the experience of witnessing an incredible amount of faith that an individual had that they found strength -- they" meaning Dr. Petit, his sister Johanna -- had found faith in what they feel was a mission and that the memory of their loved ones was driving them to be able to stand up in front of a crowd and advocate for criminal justice.

So that was my first exposure to Dr. Petit and Johanna, and then the other occasion was when they once again stood up at a Judiciary Committee meeting. Unannounced, didn't make any press releases they were coming. I was a little surprised when they arrived. To talk about this bill. And as it turned out, if I'm not mistaken, Dr. Petit sat quietly in the back of that very crowded hearing room all day long. Because his name didn't get pulled in the lottery until very late in the day. And if I'm not mistaken, that was an eight-hour meeting, pretty sure that was a -- it was a long day. I know that we debated it for hours and hours, too, but that was a very long day. And so Dr. Petit heard most of the testimony that day. Some of

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the testimony given by people in this room tonight were in favor of the bill. And I think it was, probably overwhelmingly, in favor of the bill. There were not an awful lot of people opposed to it.

And so I took pause wondering, you know, if this is such a heated debate, why is it that there is so much testimony in favor of and not -- versus not. And that was my first lesson of this experience of an elected official of the Connecticut General Assembly that you can't necessarily gauge what the population of Connecticut feels about proposed legislation based upon who shows up at a public hearing. Because a lot of the people that show up at public hearings are either paid to be here to testify or live in the neighborhood and have the ability to be here and, frankly, others may have a very strong feeling about a particular issue and the most that they could possibly do to voice their opinion on a matter pending before the General Assembly is to write a two- or three-sentence email and push send. And they feel -- those individuals feel they've done their duty as a citizen and shared with their elected official what their opinion is about a matter.

So you can't gauge by the public hearing testimony of, you know, what are people really



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thinking out there, but I will tell you -- now keeping in mind that you can't -- I quickly found out -- you can't weigh, you know, who's in favor and who isn't by who's in the room and, you know, counting heads, like we count votes. But, after every one had spoken and as I mentioned I'm pretty sure that Dr. Petit was darn near one of the last or it seemed like it was, he made an incredible impression on my feeling about this issue.

If you -- quote, If you allow murderers to live, you are giving them more regard, more value than three women who never hurt a soul and played by all of society's rules for all of their short lives. My family got the death penalty and you want to give murderers life. That is not justice. Any penalty less than death for murder is unjust and trivializes the victim and the victim's family. It is immoral and unjust to all of us in our society.

Dr. William Petit.

Mr. President, I carried on for awhile. Frankly, I have more that I -- I think I would like to share but -- but I think it's important that I listen to more of my colleagues' comments but, at this point, I can't see changing my mind.

Given that the professionals say that this isn't

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really fixing the matter, and the families say what we're proposing is not justice, so why don't we do what the experts tell us we can do -- and I refer to one of the most talented state attorneys in the United States of America, as I understand, and this is what I've heard. I've spoken to people in Florida, California; Iowa, New Hampshire and they refer to this gentleman as an accomplished individual in his field -- and he said, You can fix it; the General Assembly has to have a will to do so.

And I urge this General Assembly to reject this bill and fix it.

Thank you, Mr. President.

THE CHAIR:

Thank you.

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President.

Mr. President, I rise in support of this bill. I am in favor of repeal of the death penalty and for locking these monsters that we've been talking about up and throwing away the key. I am in favor of life without any chance of parole.

Mr. President, first of all, I want to compliment my friends in the circle here for having this debate

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and the way the debate has been conducted.

As Senator Fasano said there really is no right and wrong on this issue. This is a matter of conscience. This is something that we all feel deeply about. It is a matter of life and death. And we all respect that and I really feel proud to be here tonight.

I've struggled with this issue, as you all have, and I want to respond a little bit to some of the descriptions and the comments that have been made on the floor tonight describing some of the heinous acts, the things that none, none of us can understand, none of us can comprehend, none of us like -- it's -- what Senator McLachlan was talking about the descriptions -- I just -- I couldn't understand how someone could do that to another human being. I couldn't understand it -- not even being a family member, but, if I was a family member, I don't know what I would do?

Thankfully, I've been blessed to not have to be those shoes at this point in time. If I was -- if I was and one of those monsters walked into this circle right now, I'd want to pick up one of these chairs, break it apart and pulverize that person. I would want that person dead right now. That would be my emotion. That would be my instinct. As a matter of

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fact, if they walked in here, even though it wasn't my family member, that's what I would want to do right now.

Hopefully, one of my friends here would restrain me -- would restrain me and say that's not the way we do things. That's not what justice is about. And when we vested by the people of this Great State with the responsibility to make public policy, we need to make it based on facts, based upon logic, reason and what we feel in our hearts are best. Not based on vengeance, not based on raw emotion, and that's why I'd be thankful that you would restrain me in that way.

And a lot has been said and arguments on both sides that have been very compelling, and I'm not going to repeat them all at this late hour but what I would to focus in on, just for a second, is the fallibility of the system. The fallibility of you and I and everybody out there as human beings.

In 2005, when the Judiciary Committee started weighing or weighed this weighty issue, there was testimony from one individual, Lawrence Adams, who in 1974 was wrongly convicted and was sentenced in the State of Massachusetts to electrocution.

Mr. Adams was lucky. Massachusetts abolished

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the death penalty. He was not executed and what he said in front of the distinguish members of the Judiciary Committee was that there is human error.

This is his quote. There is human error. The law may be pure in its pure form but when we as people have to collect the evidence and have to present the case, we are not infallible. We are not infallible. And whether it is jury nullification, prosecutorial misconduct, witnesses that might not know exactly what they're saying, lost evidence, tainted evidence, misplaced evidence, evidence that's been excluded, the counsel that might not be up to par. The list can go on an on and on that may influence the outcome of a case.

And I haven't even talked about yet the factors that may go into whether you even face a capital charge, at all, whether you're in the Waterbury district or the Hartford district, who the victim might be, who you might be. Now, luckily, in the State of Connecticut, we have not had some of the horrific injustices. Many of them racially based but, otherwise, many of them economic based that we see around the country, but we're not actually just making law for ourselves, we're sending a signal to the rest of the country about what we believe the proper and

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just system should be.

Around the country, when you take into account the discretion, discrepancies and fallibility that we know is a natural part of our lives and our criminal justice system, if you look back, one report alone has shown, since 1989, 238 postconviction DNA exonerations -- these are just exonerations from DNA so there are other exonerations -- this is back a couple of years ago and we know it's been picking up with exonerations, of course, Mr. Tillman, who we all have personal experiences, was mentioned in the circle tonight. Seventeen of these 238 people were on death row at some point, and these are only the people that have been exonerated not the people that are still in our jails, as we sit here privileged tonight with our freedom, that are innocent. Some of whom may be facing a death sentence because of human fallibility and other things that go on with the process.

That is why, at its core, besides the moral issues and other reasons which I won't go into for time purposes, but that is why I can not support a death penalty. And I say let's lock them up, throw away the key, put them in that 8-by-10 square foot shoe box that Senator McDonald described with no light and let them sit there and contemplate and rot for the

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crimes that they've done. They are monster's.  
Senator McLachlan is right and my other colleagues are correct with that. We all feel that.

And the idea of the victims, the families that have suffered and must live with the effects of these horrific crimes, again, I can't try to put myself in their shoes and understand what it must be like to live everyday, every minute of the day with this memory, with this weight, but what I do know is that an important part of life is moving on and closure. And I don't understand how a system that keeps this horrific memory alive through appeals, through endless court appearances, through the public nature of keeping people on death row for year after year after year, decade after decade, helps those families get closure.

And, as a matter of fact, as Senator McDonald, spoke of, in 2005, at those same hearings where the exonerated Lawrence Adams testified, there were seven families who were victims of murders in those families. And six of them -- six of them did not want to have the death penalty. And I believe in my heart that that was because they wanted closure and justice could be served, by, again, locking them up, throwing away the key.

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Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President.

I've -- my tenure year in the House and now in the Senate, I participated in many death penalty debates, whether in Judiciary Committee for most of my tenure year -- almost every year we discussed or each session we discussed it, and then I've had, unlike many in the circle tonight, I've had many -- several votes in the floor of the House.

So this is really not new to me, and I appreciate everyone in the chamber how everyone is sincere and everyone is making a thoughtful decision, and I do appreciate and respect each member's opinion tonight. I hope each person respects mine because this is truly, I believe a vote of our heart and our conscience. But my fundamental belief is that I do believe that certain limited crimes are so heinous they do deserve the death penalty. And most people acknowledge the severity of the crimes, we defer on the penalty. 11.49.22

And I would say in my district, recently, we had



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another horrendous crime that I think all of us can agree was striking. I represent the great institution of Wesleyan in Middletown and that -- that particular incident seriously troubled me for several days as it did, of course, for the Wesleyan community.

I'm sure a lot of people was -- you may not agree with my opinion tonight, however, as I said, it's a -- it's a -- it's an opinion of my heart. And I'm particularly struck by many of the comments tonight -- in this chamber tonight. I am probably most struck by the comments of an individual, the President, tonight. He certainly spoke from his heart and about his feelings for the country and different historical references, which I do appreciate. And I'm struck by how I, appreciating his sincerity and of his beliefs, believe the direct opposite because it's to me -- I respect his opinion, and I kind of find it difficult how I respect his opinion but then I disagree so severely on the penalty of the crime where we both have common ground in terms of the severity of the heinous acts we are speaking of tonight.

I would -- rather than avoiding going into a long dissertation of the facts, which many people have in the cases. I would just like to highlight a few points over the years in this session in the Judiciary

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Committee and tonight that I'd like to address.

I -- different points along the way -- criticism by the proponents of the bill tonight the many -- at times -- at times appear to be hypocritical, to be honest where people have -- first of all, one of the current grounds of our death penalty, today, as the law stands today is a murder -- a murder that is occurred while a person is serving a life imprisonment.

At some point, a past legislature, not us, and probably nobody in the chamber tonight voted for that but there is a clear intent that we needed. That legislature decided we needed to pass that grounds for the death penalty to protect our prison guards because, otherwise, there's no disincentive to act irrationally and potentially try to kill prison guards in the State of Connecticut.

I happen to think, if tonight this act does -- pass by our chamber and signed by the Governor, our -- our prison guards could be put in -- at risk because there will be no more reason or disincentive to our existing individuals who are sentenced to life without parole to murder anyone. And I think people may disagree with me, but I think that is a legitimate concern tonight.

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Some of the proponents over the past years have mentioned in a strange way is how I look at it. I do support the current law but the criticism of the current law is there's too many appeals and the process is so lengthy, in fact, it will never be applied and it doesn't make sense. To me, actually, that is evidence of a successful law and a good thing because I -- like everybody in the chamber does not want a wrong person to be executed. So the fact that Connecticut, unlike other States, has a law that provides multiple appeals, I think, in fact, is a good thing and that criticism of our current law, I think, is invalid.

Now, I might consider -- consider revising our habeas corpus statute to limit to a certain extent as Chief State's Kane testified before the Judiciary Committee. However, as a general premise, I think our law is sound contrary to some other states.

Other people tonight have spoken about the fallibility of our current death penalty law and the fact that we could have some individuals that, in fact, are innocent are executed, and, clearly, the Tillman case was troubling to all of us. And that -- Mr. Tillman had a difficult life and sincerely -- I did speak to him one day when he came to the chamber.

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I apologized to him for his injustice.

That being said, the same individuals that criticized the fallibility of our statute say on many occasion -- I've heard proponents state that although, we're concerned about the fallibility, there's no doubt to me that the ten men currently on death row are guilty. Now that's evidence to me that, in fact, our statute is doing its job because if the proponents are saying all ten are guilty, there's no concern in Connecticut that innocent people will be executed.

Now, one of my colleagues recently mentioned a case where a person before the Judiciary Committee but, again, we are in Connecticut. We're not in Massachusetts. We're not in Texas. We're not in Florida. And, from my perspective, it appears that our law is reasoned and as the proponents have admitted on different occasions, the ten people clearly are guilty.

Another grounds that people have challenged our statute is that there is an unequal allocation or imposition of the death penalty in different GA districts in the State of Connecticut.

I spoke to our Chief State Attorney Kane this morning about our statute and I asked him point blank, why have five of the ten death row defendants been

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sentenced in Waterbury before Chief State Connelly?  
There's always a discussion Waterbury's -- you know,  
it's really up to Connelly. And the fact of the  
matter is in my consultation with Chief State's  
Attorney Kane, he said it's -- it's a matter of  
circumstance that unfortunately, these five incidents  
happen to occur in the Waterbury GA. He said, that if  
he were sitting in New London or whatever, he believes  
any other prosecutor presented the same facts in their  
district, would have applied the death penalty.

So, it's just unfortunate that there happens to  
be five heinous acts in the Waterbury GA, but it's his  
position that, in fact, there is not an unequal  
imposition of the death penalty. The fact of the  
matter is, unfortunately, as I've said, that Waterbury  
GAs had these horrific incidents.

Now, there's another proposition and tonight many  
people are saying we will -- if they're successful and  
this law is signed into act that they would support  
life imprisonment without a parole. And I did some  
short research, albeit, but I think and would without  
a definitive word, I think, it is possible that a  
future legislature can reverse the parole and  
potentially release someone on different grounds. In  
my district, I know it's not comparable but, of

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course, Mr. Messsenger there's talk of releasing him, and it's not comparable, but the truth of the matter is it's arguable that a future legislature could reverse the parole imposition and release a person on death row.

Now, is it probable? I don't know, but I believe it's possible.

And my last contention about this bill that really troubles me the most is there's proposition by the proponents of this legislation that this bill before us tonight is prospective and not retroactive. Now, legally, the fact is that, yes, we cannot change the direct imposition; however, this is a false premise and the reality of the imposition of our GAs.

In my conversation with Chief State's Attorney Kane this morning, I asked him the question, how would it work in the sense -- is it -- how would your office handle the -- the pending death penalty matters before you?

He prefaced that by saying recently our Connecticut Supreme Court had before him the issue whether our current death penalty statute is a cruel and unusual -- or whether it is cruel and unusual? And he said, of course, that our recent decision -- that our Supreme Court ruled the death penalty was not

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cruel and unusual.

It's his opinion that if this law -- this bill tonight becomes law and another petition is brought by the Superior Court, our Connecticut Superior Court would decide our death -- the -- I should not say -- would decide the pending cases before it as cruel and unusual because it would violate our equal protection clause of the Constitution because you'd have any prospective defendants sentenced with life without possible parole versus other individuals on death row having the death penalty. He thinks it would be ruled unconstitutional. But even more striking than that matter because, of course, that's a decision of the -- of the Supreme Court. As a matter of practice our Chief State's Attorney stated to me that if the bill before us were passed, signed by the Governor, enacted into law, the Chief State's Attorney's office would not pursue the death penalty on the ten people before -- on the death penalty today. He said in good conscience his office could not pursue the execution of the ten people on death row because the legislature had acted inviolated the death penalty.

Therefore, I think to be truthful to all the people in the chamber tonight, we are not voting on a prospective law. As a practical matter -- and this is

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really how we should be voting because it's a vote of conscience. And each person in the chamber does have their own well-rounded opinion, which I can't question, but to be honest to everyone in the chamber tonight -- you are voting on abolishing the death penalty retroactively and prospectively.

So, no -- no two things about it, everybody pending on death penalty and any cases pending out there that horrific crime of Cheshire and, unfortunately, the crime in my district -- I'm not sure what's going to happen with that there could be other defenses but the truth is tonight -- the truth of our vote tonight is -- you are abolishing the death penalty.

So, please I urge my colleagues don't vote tonight thinking the ten men -- ten men still on death row and other men having pending cases will still potentially get the death penalty. They will not. That's what the Chief State's Attorney told me as a matter of practice.

So, I just would like to make that clear to each of you. And I do respect the tone of the debate tonight, and I would urge my colleagues -- not really how to vote just vote true to your heart and your conscience, as I'm doing tonight, because this is a



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particularly difficult vote. And it's really a vote where I don't think I should urge anyone how to vote. I would just ask my colleagues to vote their conscience, their heart, so they can wake up in the morning and look in the mirror and feel good how they vote, despite the fact that I'm certain not all of us are absolutely certain on your vote.

I simply vote what I think is right. I think certain heinous crimes deserve the death penalty and I appreciate the patience of the chamber and I appreciate the comments of the President earlier this evening.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

I do believe what many of us have already stated, that this is a vote of conscience.

And I grew up going to Catholic school my entire life. I went to Our Lady of Mount Carmel Grammar School and Sacred Heart High School, and I was raised a devout Catholic, one of six children, you know, that ol' Irish Catholic family set up. And we all always

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taught in the parochial education, you know, to love thy neighbor as thy love thyself and do unto others as you would have do unto you and I believe in that, I truly do. And I believe that everything I do in raising my children -- my wife and I try teach them the best ways of being a person in our society and our community.

So, as everyone around this circle struggles with this, I can appreciate that. I do also believe at the same time that this is representative government. And all of us represent a certain district but, in total, we represent the State of Connecticut and on some level being in a legislature in the State of Connecticut, we represent the greater United States of America that we all live in.

And if you look at public opinion on this very issue it proves that the majority of people in the United States of America believe in capital punishment. I have a Gallop Poll that says consistently demonstrates that the American public overwhelmingly supports capital punishment. And, in a most recent poll, 67 percent of Americans favor the death penalty for those convicted of murder, 67 percent. Now we all know in our elections that would be considered a mandate and to me that's a pretty

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strong one.

Only 28 percent are opposed from this Gallop Poll. In the United States of America, 67 percent are in favor of capital punishment; 28 are against it. From 2000 to 2006 -- the most recent poll came out in 2006 -- the support runs consistently in a 2-to-1 ratio in favor of capital punishment.

The other night, I came home and, probably -- well, let me take a step back -- if you turn on your laptops and everyone has them out, I'm sure you've got in an email, I hope you did because I know I did -- from someone at Yale University. And it says that they did a poll -- a Mr. Daniel Butler from the Department of Political Science at Yale University, did a poll in my district. Now, I know this poll was done because when I got home a few evenings ago, there was a call on my machine. And one of the questions was, Do you support the abolishing of the death penalty? And another question about smoking in casinos but we won't get into that right now.

But the most important thing that came out of it were the statistics that Mr. Butler, from Yale University, emailed me. And, in my district, and, hopefully, again, all of you have these as well. My district, there was 1,962 participants. So, 1900

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participants close to 2,000. 1,226, -- and this went -- first of all, it went by party registration, Democrat, Republican, Independent, and I'll get to that in a second, but 1,226 were against abolishing the death penalty. 1,226, out of 1,962 is 63 percent. So, in my district, 63 percent of the respondents said, they would vote against this bill, HB 6578. 735 said they would in favor or 37 percent. So this, in my district, little 32nd in the State of Connecticut, went along with the results of a Gallop Poll for the whole United States of America.

Now, if you broke it down by party registration: among Democrats, it was pretty close it was 52 to 48; among Republicans, it was 68 to 31; and one important segment, Independents -- because I know we all solicit the votes of Independents. We all do mailers to Independents. We reach out to Independents because they are the swing vote -- 65 percent would be against this bill.

So, yes, I agree we are yoting our conscience tonight. And we have to dig deep and think about this vote, but we also have to remember what we're doing here every single day in this legislature, which is represent the people of our district and the people of the State Connecticut. And the people of the State of

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Connecticut are not in favor of this bill. So, when we go back to our districts, we're going to have to stand up for our vote -- answer for our vote, be held accountable for our vote.

And, when I go back to my district, I will be able to say to them with a clear conscience that I voted against this bill and with them because 63 percent of them decide that they would be against this bill.

It's also been said here tonight that the death penalty is disappearing. It was said earlier, but that's not the case. Thirty-seven states have capital statutes on their books. That to me is another majority or mandate out of 50.

It's also been said that why have victims anguish for 20 years while the appeal process is going on. Well, I'm sorry but I bet the victims -- the families of these victims probably anguish forever not just 20 years, regardless of what happens to the criminal that's put behind bars, they're going to anguish forever so I think that's a bad argument.

Then there was an argument about deterrent. Is the death penalty a deterrent? Numerous studies have shown that it is a deterrent and the death penalty saves lives.

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There's a report that I'm looking at from Emory University that says each execution, on average, results in 18 fewer murders. They found that executions has a highly significant negative relationship with murder incidence. Each execution, on average, is associated with three fewer murders. The deterred murders include both crimes of passion and murders by intimates. It also says -- and earlier it was said that we can't reform this law but although don't understand that -- that increased deterrence is based on the wait for execution. By reducing the wait of execution, you could -- increase deterrence.

Obviously, it's been about five hours since we started this debate. So I had some more time and went on my computer. I went on the Internet, and I went to the Bureau of Justice. They have a website, like everyone else, and I looked at their website and it says this is the fifth consecutive year that the population on death row has decreased, another deterrent. It works, ladies and gentlemen. This is a deterrent.

Let me just end my arguments with facts and statistics and just tell you a little story about, I guess, my relationship, my experience, my knowledge of the people on death row.

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Senator McLachlan read out a few names earlier and a couple of them struck a chord. Sedrick Cobb hung out at a Bradley's. Those of you from Waterbury -- Joan, Sam, you remember the old Bradley stores in Waterbury. I think we all went there -- but he hung out there waiting for someone to prey upon. And a girl by the name of Julia Ashe -- and my apologies to their family to even bring this type of stuff up but I think it's important -- from Watertown that Senator Mike McLachlan also mentioned that's where I'm from -- was shopping.

It was December 16th. It was about eight days left -- eight shopping days left. She was shopping, she came out to her car and her tire was flat, and the reason her tire was flat is because Sedrick Cobb flattened her tire purposely. He then offered help to Julia Ashe and helped her with the tire.

In doing so, he said, Would you mind giving me a ride?

Now what person would say no? Someone helps you out, you return the favor. Little did she know that he would drive her about a mile or two up the road to an isolated spot and rape her repeatedly and leave her there to die in a frozen little pond. He then later came back to make sure she was dead. Julia Ashe was

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23 years old when that happened back in 1989.

So, when proponents of this bill say that living is better than death, I don't think so. Julia Ashe has been dead for 20 years -- or will be dead 20 years in December.

The other one I remember, distinctly, is Richard Reynolds who murdered a Waterbury police officer. As was stated earlier, he literally bumped up against the police officer to see if he had a bullet proof vest on and then shot him at point blank range. If there's an argument for capital punishment that could be it.

.But the third one and more importantly that I really remember is that of Todd Rizzo. When my wife and I got married in '95, bought a small little house in Bunker Hill. She laughs at me to this day because she didn't see much in the house that I did but it was a nice little neighborhood in the Bunker Hill section. Right down the street there's a little park, Bunker Hill Pharmacy, and a little bit further is a little video store, you know. Before Netflix and Blockbuster online back in the day when we went to video stores. It was also a little candy store, and I think they video games and it's just a hang out, basically. Well, a little boy named Stanley Edwards, 13 years old, would hang around that video store. There's



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candy, video games, of course, it's a great little place.

Well, a person by the name Todd Rizzo met him at that video store less than a mile from my house, less than a block from Bunker Hill Park where everyone played and hung around, and probably a little bit more than a block to Bunker hill Pharmacy where many elderly people and many families go for prescriptions and the like. But he came to him at this video store and lulled him back to his house where they could play with snakes.

A 13-year-old kid, wow, I like to see snakes, and venture off to see what's going on and discover things. He then brought him in his backyard and hit him 13 times with a 3-pound sledgehammer -- a 13-year-old boy, 13 times with a sledgehammer.

I could -- for the next four years that I lived in that neighborhood could not drive by that video store. I would take an alternate route, any way I could to avoid that video store. To this day, it bothers me to drive by that video store because this little boy, innocent enough, was brutally murdered by Todd Rizzo.

Now, 68 percent of the people in the United States of America say that Todd Rizzo deserves capital

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punishment. That Ricky Cobb deserves capital punishment. That Richard Reynolds, and so on and so forth, deserve capital punishment -- capital murder and I agree with them Mr. President, I really do.

Thank you.

THE CHAIR:

Senator Gaffey.

SENATOR GAFFEY:

Thank you, Mr. President.

First of all, Mr. President, I would like to compliment Senator Mc Donald the Chairman of the Judiciary Committee for his excellent presentation of the bill and the facts surrounding the statute. I'd also like to compliment you, Mr. President, for your comments on the floor of this Senate and echoing what Senator Doyle had to say. The comportment and the civility of this debate that you exhibited is to be commended. And, to the very learned colleague, the Majority Leader Senator Looney and the excellent legal arguments he makes with regard to his position in support of this bill tonight, again, to be commended. It's a great service to the State of Connecticut that the three of you put together such fine presentations and arguments on behalf of your position on this bill.

This is certainly an issue that stirs the

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conscience. Back in 1995, in my first year in this Senate, I voted for the amendment to this statute that would allow the weighing of aggravating and mitigating factors. And, certainly, in Connecticut, if the jury finds that the mitigating factors outweigh -- outweigh the aggravating factors or are of equal weight, the sentence must be life imprisonment.

If the aggravating factors, though, outweigh the mitigating factors, the sentence would be the finality of death in these cases. And I thought that was the -- the right thing to do at the time, I still do. I'm chagrined to hear from my friend and colleague Senator McDonald that that is still being litigated. It's rather frustrating to learned at that but, Mr. President, I don't believe -- I just don't believe that life imprisonment in the cases that we are considering is worse for the person convicted than the death penalty.

I believe that human beings adapt. It's the very nature of human beings to adapt. It is a harder life, that is, life imprisonment. It is certainly very unpleasant, but it is life not a choice of how they want to spend their life I'm certain, but a choice that their victims certainly never had the opportunity to make.

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I've often -- I also heard tonight arguments on cost differential. I don't believe and I searched high and low, but I don't believe there's any empirical evidence in this nation that the cost of a system of justice premised on life imprisonment is less than a cost of system premised on the ultimate sanction being the death penalty.

As far as error, I do not believe that there's been any testimony, either in Judiciary or in the floor of this Senate, that there's any doubt that the ten people that sit on death row in Connecticut, right now, are guilty of the most heinous brutal murders of innocent people that one can imagine. And I don't believe there's really any need to go into the extent of those actions. I'm certain that all of us around the circle have read about those cases and are just aghast that any human being could do that to innocent victims.

I also believe that forensic science is far more advanced now than ever before and that, in particular, the scientific analysis of DNA is -- or narrows the possibility of error to the point of near nullity.

We all search deep inside when we consider this question. Now, I've been in the Senate since 1995, we've had this question just a couple of times in all

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of those years for a subject for debate on -- in this chamber. And you search and search and you research and you consider points made, the excellent arguments made by both the Chairman, Senator McDonald, the Majority Leader Senator Looney, Mr. President, yourself who are all friends of mine.

And -- and it's hard to disagree with your friends, but, on this one, we just gentlemanly agree to disagree. But I keep coming back to this question when I search deep inside on the debate and this bill, and that is, How do the victims feel? How would I feel if it were my children, my parent, my sibling? How did the victims feel? How would I feel?

And it doesn't matter -- it doesn't matter if was on the light of day on a street in Bridgeport or in the evening of a quiet warm night in the quaint suburb of Cheshire that I happen to represent. It doesn't matter. The crime is still heinous. The crime is still brutal, and the families suffer immeasurably and will never get over it. No matter how long, they will never get over it.

And I submit to this Senate tonight, it doesn't matter what process you want to premise your state of criminal justice on whether life imprisonment or death penalty. They will never ever, ever get over what

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happened to their loved one.

Now some people may consider, myself or others, that feel that the death penalty is warranted in these extremely brutal cases. Some people might consider that to be vindictive. I consider it to be justice. I truly consider it to be justice and what troubled me probably most throughout this whole debate tonight is what my good friend, Senator Paul Doyle, said just a little while ago and that is that the Chief State's Attorney stated to him personally today that his office would not pursue the execution of the ten people sitting on death row today as a matter of practice if this bill were to become law.

That to me is very troubling, not to mention the fact that the two men who haven't even been tried yet that committed this just incredible heinous murder -- murders in the district that I represent would not have the death penalty, the ultimate sanction, pursued against them. That troubles me very, very deeply and, quite frankly, I don't think I could go back home and look my constituents in the face because of that.

So, Mr. President, I deeply respect each and every person in this circle and how they may come down on this question tonight. Pro or con on this bill, it's been a very, very good debate. It's been

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substitutive and everybody's treated each other with extreme civility, and I think that is good for the people of Connecticut who may have the opportunity to listen to this debate. It's a complicated issue, and I commend each and every senator who has taken the floor to be part of the debate.

Thank you, sir.

THE CHAIR:

Thank you, Senator Gaffey.

Senator LeBeau.

SENATOR LEBEAU:

Thank you, Mr. President.

This has been quite an experience. There are times when one is proud to be a member of the Senate and tonight is one of those nights. To hear the reasoning and the articulateness of my fellow colleagues is very impressive from both sides, and it's somewhat daunting to stand up and to think after following such great orations say something that would be different or new. And I don't really have anything different or new to say, except I think, I'm one of the people -- one of the members of the Senate tonight who has, for most of my lifetime believed in the death penalty, and, tonight, I will vote not to repeal the death penalty.

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To try to put into words exactly why that occurs -- why that occurred inside of me is difficult because it really is, ultimately, a change of heart. And it might come down to a simple -- and some of these terms have been used all night, but a simple view of what the death penalty is, whether it's really retribution or revenge.

There's -- there's -- there's much logic to -- you hear good arguments on both sides and I've always heard the arguments and I've been -- I've been persuaded of late that -- I heard Senator Gomes talking about, 'essentially, how we've gotten less convictions since we've had the death penalty. Senator Handley talking about -- and other's talking about higher murder rates in States where death penalty exist showing that there really does not appear to be a -- a preventative nature for -- for murderers by having a death penalty.

I've been moved by the idea of the disparities in the death penalty and how it's been -- how it is disparate across economic, racial, and, perhaps, even geographic boundaries in the State of Connecticut and elsewhere. I've been -- I know something that really influenced me in this decision was my own constituent and I was just listening to Senator Gaffey and I know



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how -- when things are close to you, it makes a difference.

And, for Senator Gaffey, he had some horrendous things happen close to him, and I happen to have James Tillman in my district and that -- I began and it kind of shook me up and I said, wow, you know, eyewitness account and yet the man was innocent. And the story of Mr. Roman, the 60 year -- with a 60-year sentence for murdering a pregnant woman, was given a life imprisonment but he's been exonerated.

The cost to me, I'm not sure I -- it really bears much of a weight on my -- in my thinking and neither do the politics, but I think -- and I think that's part of why you have a change of heart. The -- I do think there are imperfections in the system, and I think there'll always will be. As human beings, we are imperfect.

Earlier this evening, the word "humility" was used, and I think that that's an important concept for me that -- that we are humble and I -- it's hard for me to put that in the same sentence as we are right to kill somebody. We are right to go ahead and to take somebody's life, no matter how heinous the crime, because it doesn't show humility on our part.

Now, I don't know, you know, why does your heart

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change? Seeing your kids grow up? Losing your parents? Appreciating the fullness of life? Just getting older and, hopefully, more mature and not just older, but I, again, go back to this idea, this simple idea, that it is retribution -- that is not retribution but vengeance or revenge to kill. And back to an even simpler idea that my -- comes from -- everybody mentioned their, you know, their faith and what the values that they were brought up with. And the very simple idea that -- I was brought with my mother must have told me a thousand times, number one, it's obviously wrong to kill but, more importantly, two wrongs don't make a right.

Thank you, Mr. President.

SENATOR COLEMAN, THE CHAIR:

Thank you, Senator LeBeau.

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, first, I join Senator LeBeau in his comments about the quality of this debate. I think no matter what side you're on, the gravity of the issue deserves the level of thoughtfulness that this circle has given to it. And I would also like to join Senator Gaffey in thanking Senator McDonald for

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bringing this out and complimenting him on his stamina for the questioning that he has gone through in this debate.

And, Mr. President, I rise in opposition to this bill, and I wish to talk tonight about some of the reasons for that, some philosophical, some emotional and some practical, but I also want to address some of the arguments that have been laid out for the bill and discuss why I believe some of the arguments that have been laid out by proponents are in error.

And I believe, Mr. President, that when we're talking about the death penalty that there are two basic arguments for it that I've heard around this circle tonight. One is that it is just. That justice is served through having the death penalty for society's most heinous crimes, and the second is that it actually acts as a potential deterrent and that it might prevent future murders of that type. And those are the two issues that I want to explore tonight in full detail.

And before I get into the details of it -- it's funny, Senator Lebeau made me think as he talked about his own experience and his own journey, how all of our perceptions and experiences actually shape our view on this issue. And I think back to when I formed my

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opinion on this was actually as a teenager.

My father was a policeman in Bridgeport for 20 years. And when I was very, very young, he shielded us from the experience that he has, as a good father should. You see a lot of things when you are a cop in a big city that you don't want to tell your children. And, by the time that I was in my mid to late teens, he started to open up and tell us a little bit about what his job was, the things that he saw. And one of the beats he worked was homicide and to hear some of the stories that he told about not just the victims but the criminals who are arrested in these murder cases is absolutely chilling.

The one example, I think of, was one time in high school. My father was away for a weekend, which was unusual because he was a Bridgeport policeman. And he had gone to New York because what he and other detectives were doing were fishing, approximately, 20 body parts out of the East River in New York City, of a Bridgeport resident who was raped, murdered, cut into pieces and then scattered throughout the East River.

And you can't even imagine a more horrific crime being done and then my father proceeded to describe the arrest of the criminal who committed the crime,

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who proceeded to laugh. Proceeded to laugh at the crime that he had committed, proceeded to laugh at the cops, saying that there was nothing they were going to be able to do touch him, and, fortunately, our justice system did convict him but he is not on death row.

The family of the victim had to experience a pain that very few of us could ever imagine while the criminal laughed and went to jail but not to a concept of justice that I formed through that experience. Because the concept of justice, in my opinion, means that you have to have inherent fairness.

And the question is fairness to who? When you think about fairness, it's a concept. You have to put it in relationship to someone. Do we need to be fair to the criminals or do we need to be fair to the victims? And where does that sense of justice actually lie? To me, there's no doubt in my mind. The sense of fairness needs to be towards the victims to make sure that the punishment that is going to be doled out is equal to the crime that has been committed.

And I speak of very, very emotional things because they're very emotional for me, but, when you think about justice, just in a more abstract level because a lot of colleagues have talked about very --

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much more abstract legal concepts. As I thought about this debate, I said, well, what are the types of justice that we should be talking about?

And, in doing research on this, I found a concept called "retributive justice." They have a number of justices that -- that -- books talk about but retributive justice has two components to it, utilitarianism and retributionism. And, in thinking about this different philosophical works have said, as you are applying a punishment, you should think about the retributive justice along these two -- along these two lines.

And, Mr. President, as you think about it the utilitarianism is the question of what is best for society? It is not concerned with the individual. It is concerned with does the punishment have the most societal good? And, then, there's the question, Mr. President, of retributionism, which is a much more directly related to the individual. Does the punishment fit the crime?

As we're thinking about the death penalty and asking ourselves those two questions, I believe the death penalty rises to the standard of justice laid out by most philosophers in both of those cases. And some of my proponents may disagree on this -- or some

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of my colleagues who are proponents may disagree on this.

The question first is what is best for society from a utilitarian standpoint? So, again, this is a very nonemotional view of it, is, let's not worry about the individual. Let's look at all of society. And the question is, is society better off for having the death penalty versus not having it?

Well, there's, first, the very direct impact that you have. Is if you have removed a heinous murderer from society, permanently, is society better off? The answer, in and of itself, is yes. Society is better off without having heinous murderers in our midst. I don't think anybody in this circle tonight, at any point, has defended any of these people. Why would society want them around, period?

Then, there's the broader question of whether there is a deterrent? So the immediate effect is quite obviously that society is better without murderers in our midst. The question is, is there a deterrent that actually means there will be less murders in other cases? I think the answer to that is up for debate, and I'll get to why I believe it's true, but it is up for debate.

I don't think what I heard anybody say is that by

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having the death penalty, we have more murders. That people actually go out and commit more murders because we have a death penalty. So, both, from the perspective of the immediate impact of that individual not being with us anymore and from the deterrent aspect, which can only be positive for society not negative, the death penalty on both counts raises to -- rises to the standard of utilitarian justice.

That's very philosophical, Mr. President, and I find that a little cold, a little calculating, for what is a very visceral issue for a lot of people, and that's why the question of retributionism, also, I believe, is a valid way to look at the death penalty. The question of does the punishment actually fit the crime? Now, this, as well, is open to interpretation as most philosophical questions are. To me, it seems that punishment fitting the crime means that it is of an equal severity equal to that crime.

That's why, Mr. President, I don't think many people have proposed that if you commit arson that there should be a death penalty. It does not fit the crime at all. It's not proportional. It's a crime against property. Even other heinous crimes, Mr. President, rape, which is probably in my mind the second most horrific crime that a human could commit



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on another human being, is not being proposed for the death penalty. . Instead, what we have is a reservation of the highest degree of murder.

Manslaughter, accidental murder, taking of a life but not fully premeditated or intentional, is not eligible for the death penalty. It is only those crimes where, in a premeditated fashion, the murderer has done something so heinous that it rises to the level of us taking their life. The punishment, in this case, does indeed fit the crime.

So the question is, what is justice? And is the death penalty just? I think, if you look at it from any of these lenses that I've put on it tonight, whether you look at it as being inherently fair to victims, whether you look at it as a question of what's best for society, or whether you look at it as whether the punishment fits the crime, through any of those lenses, the death penalty rises to the level of being just.

A footnote to that, for those of you who are concerned about being fair to the criminals because, quite obviously, in my three lenses, I did not say we needed to be fair to criminals but people around the circle have made that argument. Our system is set up in such a way to avoid making horrendous errors and

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that is through our appeals process and the fact that we have a way for people who are convicted to say, wait, this jury might have gotten it wrong; there might have been a procedural error; we are going to have someone else take a look at it. That gives the criminals their fairness, their fairness to be heard. Their fairness to make sure all the facts are out.

And we'll talk a little bit later about some of the problems with the appeals process because the way it's structured has made the death penalty less effective than it could be. But the fact that all of us in the circle would continue to defend the fact that there are -- there is the right to appeal makes this fair to the criminals, as well.

So, Mr. President, I've talked a little bit about justice, which is one of two reasons for the death penalty. Let me talk a little bit about the second reason I believe, that we should have a death penalty, and that's deterrence. And, in my mind, Mr. President, my first argument is stronger. My first argument, I think has a -- a clarity of logic that I find very compelling, and I hope my colleagues do, too.

The deterrent question, I think, is a little more ambiguous because there are different facts, different

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statistics, that have been laid out tonight -- and I'm going to lay out some, as well -- that have shown the argument both ways. But, first, before I start talking about statistics, I want to talk about common sense. And the common sense I find around the deterrence argument is that to say the death penalty would deter all murders is illogical because not all murders are premeditated in such a way that you may find yourself as a potential murderer saying, oh, wait, I may face the death penalty.

So the one extreme of the argument that having the death penalty will deter all murders is incorrect, but, at the same hand going to the other extreme, and saying the fact that we have the death penalty will deter no murders, I find equally incorrect. Because to have the death penalty and to have no deterrence would imply that no one puts any thought into committing a murder before that's committed.

And I believe, Mr. President, that the truth lies somewhere in the middle. That there are a large number of murders that are out there that the killer actually thinks about, sometimes chillingly so. And for those people who've actually premeditated and thought about killing a fellow human being, I believe the death penalty does serve as a deterrent.

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I believe it serves as a point of giving pause not -- again, not for everyone. Some murderers, again, might premeditate it and think about the death penalty and be so consumed with hate and violence that they proceed, but there will be those who will think twice. There will be those who will give pause to their plans. And, to me, Mr. President, if the answer is, we've saved one victim's life through having the death penalty that is a huge societal benefit.

Now, I'm not going to stand here and make the claim that I know the precise numbers; that I can tell you that having the death penalty or even the threat of the death penalty, as we have here in Connecticut -- as I believe Senator McDonald stated, we've only had one real execution in the last 20 years -- even having the threat of the death penalty is going to give enough murderers pause to have a positive deterrent effect. I can stand here and claim it's a 100 victims that have been saved. I can claim there's one. I don't know but even if it is one, and I believe, logically, as I just laid out, it has to be that makes the deterrent impact of the death penalty valuable.

Now, Mr. President, having said that, a lot of statistics were listed out tonight and I, too, did

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research to find the ones that I personally found compelling. And, for this, I look at nationwide numbers to see what the murder rate actually was before we had the death penalty in this country, before its reinstatement in the 1970s, versus what it was more recently. And, in looking at that, the annual murder rate in the United States from 1965 to 1980 went from 9,960 murders to 23,040 murders, a 131 percent increase. Now, contrast that with the murder rate for 1995 to 2000, which was 12,000 per year, a reduction of 44 percent, from that 1970s rate, with an average of 71 executions a year.

Now, if you think about those numbers -- and I'll tell you what the caveats are on them in a second because there are some caveats -- but if you think about those numbers, 71 executions a year in the United States, not in Connecticut, but the United States is not a large number of executions in a population of 300 million. Yet, for 71 executions, we saw a 44 percent drop in the murder rate from before the reinstitution of the death penalty to after.

Now, why claim that all that 44 percent is an impact of having the death penalty now? There were a lot of other factors that were happening in society that were helping to drive down the murder rate, but,

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as they say in the sciences, they say correlation is not causation, but there's usually something there. And the fact that we have the death penalty in the 1990s, where I have my data from, shows how much -- or the fact that we actually do see an impact from having the death penalty on lowering the murder rate.

Again, much like I wouldn't claim that we've saved 100 victims in Connecticut, I won't claim that the 44 percent drop is from having the death penalty in the United States. But if you look at the state that had the largest drop in the murder rate, it was in Texas. The state that actually implements the death penalty, the most consistently, they had a 60 percent drop in their murder rate from the 1970s to the 1990s.

So the question becomes, in deterrence, we could debate about what the impact is, how great the impact is. What I don't think is debatable is the fact that there's some deterrent that exists. And other points that I have, which, again, I can't claim that this right.

Isaac Ehrlich, the 1973 study that he claimed, there were seven lives saved for every death penalty conviction carried out. I don't know his methodology. I can't stand behind it. I don't know if that's right

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or not or if it's more or if it's less. Was it at least one over the 1990s? Did we save one life by having the death penalty? I find it very hard to argue that at least one life wasn't saved.

And, finally, Mr. President, on deterrence, is the point that the death penalty itself is the ultimate deterrence because most of these people who commit these heinous crimes who are convicted and who are on our death row right now are people who, relative to the general population, would have a preponderance to do it again and removing them from society will ensure that these killers will never harm another person. Even if they're in jail for the rest of their life, they won't harm other prisoners. They won't carry out the same heinous acts that they carried in the past.

So, for all those reasons, Mr. President, I'm going to oppose this bill tonight. But I also want to address some of the arguments of the proponents of the bill because I believe that they were very thoughtful. They're well argued and very well laid out, but I heard three arguments that I will group them into. There may have been other's that were laid out. But the three that I heard were, one, is there's an issue around wrongful execution that much like I said that

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we would have saved at least one victim's life. The proponents probably, quite accurately, argue if you do a lot of executions, at one point you're going to get it wrong, and at one point you might put an innocent person to death. I want to address that topic.

Secondly, I want to address the cost topic, and Senator Gaffey most recently mentioned it, is the fact, that people say that the death penalty is more expensive than life in prison. And they're a lot of fallacious numbers behind that I'd like to address.

And, then, third, and probably the most emotional argument was that all human life is precious, and I'd like to talk about that as well.

So, let me start, Mr. President, with the first objection. It is that there is wrongful executions that will inevitably happen when you have the death penalty. The fact, that you have even 71 murders a year -- excuse me -- 71 death penalty executions a year in the United States. There has to be one. There has to be one that we got wrong, and, Mr. President, I don't know if I can argue that? I don't know if I can argue that we have not at some point in the last 30 years put at least one innocent person to death. I think the statistics will probably show we have.



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The question is when you're looking at this process, again looking back to the concept of utilitarian justice, is how are we going to assess that risk? If there is a risk present, should we eliminate that risk? I'll give you an example and then an extreme example.

An example would be, as know from the Tillman case, I am sure there are people in jail right now who are wrongfully there. We have had -- our error rate might only be .1 percent, but they're people in jail right now who are wrongfully there. Should we therefore, get rid of jail? Should we, therefore, say because there is an error rate there that rather than working to correct that error rate, we should let everybody out of jail? That is the exact analogous argument to saying we should get rid of the death penalty, if there was that even one, even one innocent person put to death. The better argument is to say how can we ensure that we have the smallest error rate possible?

A more extreme example would be driving. If you think about it one of the number one killers of people in the United States is auto accidents, 45,000 people last year alone. And would anybody say that we should get rid of cars because they kill an awful lot more

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people than are even murdered every year. Again, it's a mistake in how you actually think about the risk of error.

The question becomes not whether or not you can ever eliminate that risk because you can't. We're human. You can't eliminate that risk in the death penalty. You can't eliminate that risk for life in prison. You can't eliminate that risk when you're driving. The question is always for us, how do we minimize it? And the answer, Mr. President, is by ensuring we have a strong appeals process in place that allows criminals the chance to state their case and allows us and our justice system to uncover the facts, to make sure that we've reached the right decision.

Now, that appeals process, in my opinion -- and we'll talk about this later with amendments -- should be unlimited but time bound, and what do I mean by that? What I mean is that in these death penalty cases, we cannot restrict the right to appeal. We have to allow a convicted felon the right to try to introduce new evidence, to challenge a procedure and allow them an unlimited number of them. However, Mr. President, we do not have to give them an unlimited amount of time to do so. We can actually time box

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them to say, you, you need to file your appeals in X amount of time and the sentence must be carried out and why -- and we'll have amendments later on to deal with that.

So, Mr. President, of this first point that proponents have made, I believe they made a fallacious assumption in saying that just because the possibility of wrongful execution might exist that we must throw out the death penalty.

The second argument that has been made is one, quite honestly, Mr. President, that I'm more used to making, which is the financial one, which is the argument about cost. And a lot of numbers have been thrown around here tonight. But beneath statistics, Mr. President, there's common sense. And I want to lay out what the actual costs are for executing someone versus having someone for life in prison.

First, the actual cost for executing someone is minimal. It is an injection. It is administering that injection. It is having a priest there for last rights, and it is having the overhead to have that jail. That is it.

The cost of life imprisonment -- excuse me -- life imprisonment is a lifetime of clothing, of feeding, of entertainment, of the overhead to have that jail, of

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security, of facilities. Now, proponents say, ah, but you have to provide all of that for the death penalty plus the costs of appeals, and here, Mr. President, is where they're right in the current world, but it doesn't need to be that way.

If you look at the absolute cost of executing someone versus the absolute cost of life in prison, the order of magnitude is over a 100 to 1. The thing that the proponents have cited that drives up the cost of executions is the fact that we actually let people -- let the murderers linger on death row for years, in some cases decades. So you incur all the same costs that you do for life imprisonment, possibly even more because of maximum security, plus the costs of appeals.

And so, if you put those together in our current system the way its formed, of course, it's going to be more expensive to execute someone when you never really execute them, when you let them linger. So it is a fallacious argument, again, because it assumes that we do not streamline the appeals process, not to limit the number of appeals, but to limit the time in which those appeals can be filed.

The third objection to death penalty, Mr. President, and probably the most emotional, is the

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argument that all human life is precious. And the argument has been made tonight that criminals are still human and what right do we have to take their life? Just like what right did they have to take a victim's life?

And, Mr. President, I disagree with the assumption underlying this, that humanity is simply being alive. That humanity is, simply, you were born a homosapien and that you exist. Humanity is more than that, Mr. President. Humanity is something deeper. It's abiding love that exists in all of us that we have for ourselves, for our fellow man, for our families. That is what makes us human. When these criminals commit these heinous murders, when you -- as in the case of father's case that he dealt with, when you rape a woman, brutally stab her, chop up her body, and throw it in the East River, you forfeit your humanity.

In my opinion, Mr. President, you no longer, at that point, deserve to be called human, deserve to have the consideration of philosophy that we would apply to a human and so when my colleagues say all human life is precious, I agree with them. But the murderers when convicted beyond a reasonable doubt and through the appeals process are again and again found

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to be guilty, when the murderer who my father caught, laughed at the thought of the murder he had committed, this is not humanity.

So if you take these arguments apart that the proponents have made, you find that it is not an issue of cost. It is not an issue of wrongful execution. It is not an issue of the sanctity of human life. Instead, the arguments to keep the death penalty, of justice and of deterrence strongly outweigh the fallacious arguments, well-intended they are, that proponents have made.

Finally, tonight, Mr. President, I'd like to talk a little bit about, even in our current laws, something that I, personally, find offensive. And my colleague, Senator Gaffey stood in praise of it because it is nuanced and is sophisticated and it goes against the very principles that I believe I just laid out of what justice truly is and that is the aggregating and mitigating factors that we have surrounding the death penalty.

Mr. President, when considering whether to have life imprisonment or the death penalty in this State, we ask our juries and our judges to consider aggravating and mitigating factors. So, if you look at the aggravating factors, things like, the defendant

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committed the offense during the commission or attempted commission of a felony; or having been convicted of two or more state offenses or two or more federal offenses; or committed the offense and knowingly created a grave risk of death to another person in addition to the victim; did it in an especially heinous or cruel manner; did it with an assault weapon.

Mr. President, committing murder, a premeditated murder, to me it is irrelevant whether it was done with an assault weapon or whether it was done with a knife. The woman my dad found there was no assault weapon, simply stabbed with a knife over 20 times.

And so these aggravating factors seem to imply that some murderers are not worthy of the death penalty. That some premeditated murders are actually better than others, and I find that patently offensive. Even more offensive, Mr. President, is the mitigating factors portion of this, where you say, well, let's weigh -- jury, let's weigh those aggravating factors against mitigating factors -- and I'll read this.

It says to determine whether a particular factor concerning the defendant's character, background or history, or the nature and circumstance of the crime

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has been established by the evidence and whether that factors is mitigating in nature considering all the facts and circumstances in the case.

Let's take that apart a little bit. The defendant's character. If a defendant has murdered someone and has been convicted beyond a reasonable doubt, I don't think there's anything mitigating about that person's character, background or history. To say that a murderer should be let off the hook from the death penalty because they grew up poor is a ridiculous argument. You are just as much a murderer if you come from the wealthiest family in Connecticut or you come from the poorest.

These mitigating factors, Mr. President, and the aggravating factors that accompany them, I believe are not put in place to be a sophisticated and nuance way of thinking about it. I believe they're put in place to make sure the death penalty never happens in Connecticut. To put in such rarefied aggravating factors that they are rarely present in many murders and to put in mitigating factors that allow almost any defense attorney to make an argument about the poor murderer's background or history, and it's a mitigating factor.

So, Mr. President, to summarize tonight, I



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believe that my colleagues all good -- all well-intentioned, all true to themselves, and I applaud each and everyone of them for laying out their arguments in heartfelt way tonight. I hope they feel the same for me because I do believe that the logic I have laid out for the justice of the death penalty, whether through the prism of fairness to victims of utilitarianism philosophy or retributionist philosophy is just.

I also hope that my colleagues will agree that there is some deterrent effect to the death penalty. Don't know how much it is but even if it's one victim's life saved, it's worthwhile. And I hope the objections that I've made to the proponents' arguments go heeded in terms of wrongful execution, cost, and the argument that these heinous murderers are humans whose life is precious. And the mitigating and aggravating factors, Mr. President, although tangential to my argument are something that I believe we need to consider if the death penalty does continue on in Connecticut, as I hope it will.

So, Mr. President, I thank my colleagues for indulging me. I know I can very often talk quite a bit, but this was a topic that was very important tonight, and I thank you all for your indulgence.

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And thank you, Mr. President.

THE CHAIR:

Thank you, Senator Debicella.

Will you remark further?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President, and good evening, sir.

THE CHAIR:

Good evening.

SENATOR MCKINNEY:

Mr. President, let me start by acknowledging what I think all of my colleagues who have stood up -- at least, all, after the first person, have stood up and acknowledged that this has been really an extraordinary debate tonight in the Senate.

One of the reporters -- I forget who it was -- asked, you know, why we would be doing this debate? The Governor has indicated that she's opposed to the abolition of the death penalty, had indicated during the time of Michael Ross that she would veto a bill that abolished it. The House did not pass the bill by a veto-proof majority and it did not appear at the time that there would be a veto-proof majority here. And my response was -- and the reporter went on to say, in light of the fact, that we are in such dire

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fiscal straights. And my response was that this is absolutely a debate that we should have.

I was talking to Senator McDonald earlier. We probably shouldn't have it every year maybe every legislature should have it because it is an issue that is that important.

I've said to many around here and I'm going to contradict myself but I'll tell you what I've said to many, is that this debate maybe should have been ten minutes, where each of us would stand up and say that whether or not we believe the death penalty is a just punishment or not, and that position really is one of conscience. One that you feel in your head or your heart. I also think it's one that each legislator should visit and revisit each time the issue is before us.

There was one of the justices of our Connecticut Supreme Court, Justice Katz, who I consider to be a friend and an extraordinary jurist, said that, she obviously has written dissents and opinions against the death penalty. And some of my colleagues said, well, how can she take that position if the death penalty's been ruled constitutional by majority of our Supreme Court? The answer is because she is the justice of the highest court of the State of

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Connecticut and she sits as the last review and every constitutional challenge on each individual on death row that comes before her is a new challenge and should be looked upon fresh and anew. And I think that's the same for all of us here.

I have spent many time -- much time, as a state senator, over 11 years, thinking about this issue and much time in my life thinking about it. There are not many votes we'll take, Mr. President, that are as powerful as this.

I intend to oppose the bill before us. And, in my opposition, I am stating support for the current law, which allows the death penalty in the State of Connecticut. And it is impossible to take that position without understanding the enormity of it because I know that by my vote and by my position if it is upheld and our current law stands that, at some point, someone on death row or someone who may be on death row in the future, may be put to death because of my vote because of the position I have. And that is an extraordinarily awesome responsibility and, in some ways, a burden, that I think all of us have. And that's why this is an important debate to have. That's why it is an extraordinary debate for us as a legislature and as a state senate. And I think the

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quality of the debate that we've had here has really been something that we should all be very proud of and the people that we represent should be proud of, as well.

When I entered law school, Mr. President, you take all the normal classes -- you did as well -- criminal law, constitutional law. I remember my first naïve thought was, well, I thought things like -- well, how can it not be cruel and unusual punishment putting someone to death? How you can you actually put someone in prison before they've been convicted of a crime? How are these things allowed under our constitution? Of course, you learn through the teachings, both, in criminal law and constitutional law that life isn't so simple, and the answers aren't so obvious.

After -- during law school, I had a great opportunity to intern in the chief state's attorney's office in the appellate unit. One of the things that the interns did -- I think there were a handful of us from different law schools -- one of the things we did was to take a tour of our correctional facilities. And I think the tour of Carl Robinson was one of the more powerful moments of my life, and I will never forget the corrections officer.

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At one point, we were in the far end of the facility and someone on the tour asked, Why don't you guys carry a weapon -- a gun? And his response was, well, if we did, we could easily be put away in a corner by a number of inmates; our lives would be in danger; the lives of others would be in danger; and, then, he commented that, in fact, the corrections officers were probably the only people there without a weapon.

And there are a lot of other societal issues that we could talk about that made that experience powerful, the make up of the people there and issues that I think people in this circle are all too familiar with. But after going to Carl Robinson, we had an opportunity to go to, then, maximum security prison and take a look at death row and that was just a frightening experience.

Senator Fasano had mentioned earlier that he had taken a tour of that, as well, and I have to tell you that that experience, in particular, but my entire internship in the chief state's attorney's office formed my opinion about this issue, as well.

Upon graduating from law school, Mr. President, I had, perhaps, the greatest professional experience of my life, other than being a state senator. And I got

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to clerk for Justice Richard Palmer of the Connecticut Supreme Court, extraordinary individual. One of the smartest people I've ever met in my life. And one of the first cases assigned to him was the death penalty appeal of Robert Breton. And I believe Mr. Breton's case has been to our Connecticut's Supreme Court on a couple of occasions. I don't know how many, maybe two or three. But this case was assigned to Justice Palmer because he had not -- he was the new member of the court and had not taken a position on the constitutionality of our death penalty. And the Breton case involved our prior death penalty statute, whereby the aggravating cap -- the aggravating factors were argued in the death penalty phase, the sentence phase of trial. And if there was the presence of any one mitigating factor, that would commute the penalty from death to life imprisonment.

And I remember after Justice Palmer had been assigned the case in his chambers talking about and I don't think we're allowed to disclose what we talked about with the justices in chambers, but there was one poignant moment where he said that he knew he needed to and asked me as his law clerk to put aside any personal beliefs we had or political beliefs we had about the death penalty and that are goal there was to

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do justice, to look at the case, to look at the case law, to understand the constitution, understand Connecticut's constitutional history, which included a Constitutional Convention -- I believe in 1965 -- which led to some evidence that ratified the position that the death penalty was constitutional and was intended to be constitutional in the State of Connecticut.

What struck me about that case was we also got the opportunity to go through the entire trial court record and all of the evidence in that case. And the case of Mr. Breton is unique but it is similar in all of the ten cases on death row in that it is a brutal, cruel, inhumane, disgusting murder. Mr. Breton went into the house of his ex-wife, who I believe was in her 30s, his son who was 16 years old, and he chased them around the house, stabbing them and murdering them. Stabbing each, I think, dozens of times from the bedroom down the stairs on to the first floor, as I recall.

And I say that not because anybody here in the circle, regardless of your position, thinks anything differently than I do about that. It's a disgusting inhumane crime, but I think it's important to say that because those are the types of crimes committed by the



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ten people on our death row in the State of Connecticut.

Whether it's Mr. Ashby or Robert Breton or Sedrick Cobb or Robert Courchesne or Richard Reynolds or Daniel Webb or Todd Rizzo or Jessie Campbell or Eduardo Santiago. Those are the type of crimes, and I think they are the crimes, again, regardless of your position on this bill, that we would all agree upon, clearly, are the most heinous of murders one could imagine.

I think, Russel Peeler is the only case on death row, where someone did not actually commit the murder. Russel Peeler was the individual who talked somebody into killing the two people who were going to testify against him at trial and killed the two people in the City of Bridgeport.

One of the conclusions I reached through that process as a law clerk and working with Justice Palmer in the decision, is that there was -- there was no doubt about Mr. Breton's innocence or guilt. It was obvious that his guilt was beyond any doubt at all. And I think one of the things that we have to note here and our division of criminal justice in the State of Connecticut pointed it out in their testimony before the Judiciary Committee, is that unlike perhaps

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other jurisdictions, unlike perhaps all other jurisdictions with the death penalty, Connecticut is unique in that we are not debating the innocence or guilt of the ten people on death row. We are not debating the potentiality of errors for the people we have on death row.

There have been a number of senators who stood up and talked about the possibility that mistakes could happen; that the technological advancements of DNA testing and the like could lead to the termination that someone who is now in prison is actually innocent and should be freed. It was an amazing moment when we, as a Senate, voted to compensate Mr. Tillman for the wrong that had been done to him. It was an even more amazing moment to get to meet and see what an unbelievably gracious human being that he is. I could not be the man that Mr. Tillman is were I to have spent, I think, 18 years. That's what he spent in jail for crime that I did commit. But that's not the issue here in Connecticut.

And the examples that people have talked about whether it's Illinois or other states, are just that, examples from other states. And I think it's important to point out that no one has talked about Connecticut because we can't talk about Connecticut

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because there is no doubt. There's no doubt that Michael Ross -- there's no doubt that the ten people on our death row committed the crime.

So, in Connecticut, and that is the death penalty statute we are debating, the issue of potentiality of errors is not an issue -- is not really an issue.

I think, Senator McDonald when he brought out the bill talked about or maybe it was a conversation he and I had, talked about the purposes of our criminal laws, our punishments. And, again, establishing criminal laws, which we do as a legislature, which we do as part of society, I think also should not be taken lightly. And we've debated different criminal laws and increasing penalties for this crime or that or lessening penalties for this crime or that, but at its face when we establish what criminal laws people could be sentenced to jail for, we are understanding that we are taking away someone's liberty. We are taking away their freedoms and, in this case, potentially, their life.

So it's important to evaluate what the purpose of our criminal laws are, and we had that discussion, Senator McDonald and I, about the four purposes: punishment, deterrence, protecting the public by incapacitating the individual in prison, and

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rehabilitation.

And when you look at the two alternatives before us, the death penalty or life imprisonment without possibility of release, it's interesting to look at those two in light of those four goals that I set forth.

In terms of rehabilitation, both those who favor the death penalty and those who choose life imprisonment without possibility of release would argue that they have the same position on rehabilitation. Neither position believes that the -- this individual can be rehabilitated because neither believes that the individual is ever going to be released into society again.

If you look at the incapacitation argument, the protection of the public from this person the committing the crime again, and, therefore, the person needs to go to jail for a period of time, you could make the argument that both positions are the same. I would argue not. I would argue that the death penalty provides an extra layer of protection. Senator Fasano talked about his conversation with the corrections officer and the corrections officer talking about, you know, the world in here being different than the world outside and, certainly, that's correct. But there is

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an issue about the safety of corrections officers. And the potential that someone who is in prison for life without the possibility of release, someone who has committed a heinous murder or a heinous murders, may just want to do it again to a corrections officer. And so I think from a position of incapacitation or another -- or another prisoner from a position of incapacitation, there is, obviously, more protection under the current law.

On the issue of deterrence, I think -- I think there's a lot of debate about that. Many who've stood up tonight to support the abolition of the death penalty have criticized the death penalty as not being a deterrent. And I guess I would say, first off, let's assume that's correct. Let's assume for sake of argument that the death penalty is not, has never been, cannot be a deterrent. I don't know how we could ever prove that, but let's assume that for sake of our argument. If that is the case, then it also must be the case that life imprisonment without possibility of release is similarly not a deterrent. So I would ask you why is the death penalty's lack of deterrent effect a reason to get rid of it and adopt another punishment, which, similarly, by your own admission, would not be a deterrent?

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Now, I think we also should take that assumption aside for a second because I think that those who support the abolition of the death penalty must concede that there are at least studies and peer review reports that suggest that the death penalty has a deterrent effect. Now, I haven't read all of these studies. I'm not capable or confident to do the studies and the studies may be flawed, but there are at least, as acknowledge by our own Division of Criminal Justice here in the State of Connecticut, in their testimony before the Judicial Committee -- Judiciary Committee -- excuse me -- they said there are those who claim is not a deterrent, the death penalty, but there are numerous studies published in peer review journals establishing that executions do deter the crime of murder and, therefore, save lives.

And there's a study that I have that takes a look at a number of those different studies and, in summation form, talks about a study done by two -- three Professor's at Emory University where they looked at panel data set of over 3,000 counties, from 1977 to 1996, and determined that executions had a highly significant negative relationship with murder incidence, in other words, that the death penalty and executions save lives.

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A separate study done afterwards by just one of those three professors, confirmed those findings, that for each execution on average, there were fewer murders that were committed.

Another study done by two professors from the University of Colorado at Denver, also confirmed -- two studies confirmed the deterrent effect of capital punishment.

Two studies done by a man, named Paul Zimmerman, who I do not know, but using state level data from 1978 to 1997, found that for each additional execution, on average, there resulted in 14 fewer murders. And still a fifth study, by a professor at Auburn University, found also that there was a deterrent effect. And the summation by this one study, in review of all those studies, is that capital punishment does, in fact, save lives and that each additional execution appears to deter between three to 18 murders.

Now, again, I have not read all those studies but they are published. They are peer reviewed. And I think, at the very least, we must agree and other's must concede that there are arguments, well-founded, studied peer reviewed arguments that demonstrate that there is a deterrent effect.

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That gets me to the fourth point, which we talked about. We talked about rehabilitation and we talked about incapacitation and deterrence and that's punishment. And, ultimately, I think that's what this debate is about. Do you think that it is a just punishment for some crimes or not? If the answer in your heart and your gut and your head is yes, then you'll vote in opposition to this bill. If your answer is no, then you'll vote for it.

One of the things that I don't think has been raised is the fact that this penalty, I believe the evidence shows, has been a helpful tool for prosecutors in the State of Connecticut. We all know and we've all talked about it, as have I, the fact that there are ten people currently on death row.

Senator McDonald, I believe referenced the 40-plus -- 46 or 47 people who are currently in our prisons with life without the possibility of parole or release. I'm not sure which it is. I guess it's without the possibility of parole, who are there for capital felony crimes. Individuals who could have been charged with and sentenced with the death penalty.

My sources and my information in looking at those 46 or 47 individuals indicate that a number of



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them, perhaps as much as one-quarter of them, plead guilty. They didn't go to trial. They pled guilty, and I think one has to assume that faced with the possibility of being charged with the death penalty, they opted to plead for life without the possibility of parole rather than face the death penalty. For those individuals who pled guilty, the State did not have to go through a trial.

Now the issue that I think it's not really that important is that we didn't have to go through the cost of that trial. But the issues that are important is that the family members of the victims were spared the anguish and, perhaps, having to even testify at that trial. Perhaps, most importantly, we guaranteed that those individuals would all go to jail. Four or more trials didn't happen where maybe evidence could have been spoiled or eyewitnesses accounts could have been not remembered, and, perhaps, someone who was guilty may have been let go and now they weren't.

So I think you have to acknowledge if there are people who plead guilty to murder, who plead guilty to life imprisonment because they feared being charged with the death penalty that having that penalty is an important tool in those cases to the State and the prosecution of those individuals. And I would argue

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that that's just common sense. Nobody pleads guilty to the most serious offense. That's not what plea deals are. Rather than going to trial and risking being punished by the most serious crime, prosecution, defense attorneys see if they can reach a plea deal for something less than the most serious offense.

So if we abolish the death penalty, we than set as the most serious offense, life without the possibility of release, and we guarantee that no one will plead guilty to that. They will all decide to go to trial and something could happen in one of those trials. Or if there is an issue over the evidence, if there is some concern about eyewitness testimony, if the prosecution, as we've heard on a number of different issues from Jessica's Law and other debates we've had, perhaps, one of the witnesses is a family member or a young child and the decision is to not have them go through that anguish and torture and be subjected to that trial, they decide to plead to something less than life without possibility of release, then we have guaranteed that we have weakened the punishment of someone who's committed one of these most heinous crimes.

And that gets me to -- and I'm going to address some of the arguments made by the proponents of this

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bill -- that gets me to the one that I least like and the belief that somehow life without possibility of release is, in fact, a harsher penalty than death. Because I think while we're all entitled to our opinions and this is clearly a vote of conscience, that's the one argument that we have some factual basis to say, there are no facts to support it. Moreover, all the facts support just the opposite. If the people who commit these heinous murders -- and let's just take the ten individuals in Connecticut, if they believed -- if they believed that life without possibility of release was worse than the death penalty, why would they be fighting the death penalty? Why wouldn't they be doing what Michael Ross did and said, I don't want to exercise my appeals anymore? And even Michael Ross fought his death sentence four years before giving up subsequent appeal rights.

If it were a harsher penalty, if life -- if you think about it, if life without possibility of release is actually a harsher penalty, then we might want to keep the death penalty, have both, so people can plead down to the death penalty? But that sounds so silly because it is, because it would never happen because nobody would choose the death penalty over life without possibility of release and that is exactly why

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there is no argument. There can be no argument that it's a harsher penalty. It makes no sense. It doesn't wash. It doesn't wash. I think the reason why people try to make that argument is because of the political concern of being soft on crime. Nobody in this circle who supports abolition of the death penalty is soft on crime, and I would suggest that, and I would hope nobody, for political purposes, ever would. So I think we should just take this argument off the table because there are no facts to support it, and it really makes no sense.

The other argument made, I touched upon it briefly and I won't spend too much time on it, is that errors can be made and death is irreversible. Well, that's obvious, but, again, all of the evidence to support the argument about errors being made was from states not called Connecticut. And if I were in Illinois or I were in Texas, we might be having a different debate and I might be taken a different position but none of us here are in those states. We're here in Connecticut.

And that's gets me to the other argument about the need to abolish the death penalty because the death penalty we have in Connecticut simply isn't workable. Mr. President, I don't know what that

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means. I honestly don't. Is it not workable because we don't execute enough people? So would it be workable, if we had a Texas style death penalty, where people being executed monthly? I would dare say that if I offered an amendment that modeled the Texas law, which was workable, because people on death row were actually being executed that those who say our death penalty isn't workable, would not support that amendment. I don't think I would either, by the way, and that's where I come down on the argument that I don't understand the definition of "workable?"

Here's mine and I think it's subject to your own perspective. My definition of "workable" is that we have a very narrow, a very limited death penalty, not one that can be applied to all murders but only the most heinous and cruel and depraved murders.

My definition of "workable" is one that does ensure enough appeal rights so that we, as a society, can all feel comforted and know that the person is guilty beyond all doubt, beyond all doubt. So workable doesn't mean, you know two years from conviction to death or a short term. Workable, to me, means a longer period of time.

My definition of "workable" is a death penalty where there is no doubt that every individual on death

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row and every individual who, ultimately, is executed, as was the case with Michael Ross, that there is no doubt. Even the people, who abhor the death penalty, concede that Michael Ross was guilty. And that Sedrick Cobb and Robert Breton and all the rest are guilty, as well. So that's my definition of workable. And I think, each of us can have that definition, but I would argue that the Connecticut death penalty works because of its limited use and because it takes a little bit longer and that extra time is used to make sure whether it's habeas petitions or other appeals that the person who may be sentenced or will be sentenced to death is, in fact, guilty.

There was an issue of costs that has been brought up and, again, I think that's subject to debate. I think Senator Duff had referenced Scott Turow's book and I think it's important to point out that even Scott Turow said that he reached the conclusion that the cost argument is a red herring, and that's a direct quote from his book. He said that certainly, cost savings wouldn't justify capital punishment, essentially, any more than it provides a compelling argument to do away with it.

I also think that our own Department of Criminal Justice, again, in their testimony before the

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Judiciary Committee, in testifying and stating their opposition to this bill, said that those who argue that it's cost make it prohibitive, fail to understand that what they're talking about is that the great bulk of the costs come from the postconviction litigation. That they ignore not only the studies that conclude that executions do prevent additional murders, which is enormous cost savings there, but they also ignore studies that show that the possibility that the death penalty may be imposed has a positive effect on the willingness of defendants to plead guilty and accept life. So, again, our own Department of Criminal Justice has testified and given cogent arguments and evidence that the argument that it costs more is not a complete and full argument and that those who favor abolition of the death penalty, like Scott Turow has said the cost is a red herring. So, again, I think the issue of cost is one that we need to put to the side of this debate, as well.

Another argument, Mr. President that was offered by those in favor of this bill is that our death penalty in Connecticut is cruel to the victims. I don't know how we address that. I really don't. I have no doubt that there are family members of victims of horrible crimes, who abhor the death penalty. Just

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as I have no doubt that there are family members of victims who believe in their heart that the death penalty is moral and just. What strikes me is that I don't know who we are to even being talking about what is right for the family members of these victims. I think it is of no place of ours to suggest that our current law is unfair to family members of victims.

I could not imagine. I could not imagine if someone had murdered a loved one of mine and I -- I honestly don't know what my reaction would be -- Senator Harris -- Senator Harris said a lot of things, I think a lot of us would think. We want to personally, you know, do something but I don't know. I don't know how I would feel if someone who had murdered a loved one was put to death. My guess is that every single second of every single hour of every single day of their rest of lives, those family members live in anguish, whether we have the death penalty or not. And our hearts, regardless of where you are on this issue, go out to them.

But I just -- it's frustrating to listen to the arguments that we put ourselves in the positions of defending the family members of victims by getting rid of the death penalty because in -- and Senator Harris again, you could tell I listen to what Senator Harris



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because he had excellent remarks -- he talked about how, I believe, six out of seven or five out of six families who testified at a judiciary committee hearing were family members of victims of murders who supported the repeal of the death penalty. And I, again, our hearts would go out to them. But I think if we're going to say that this is cruel to families of victims, we'd also have to say that repealing it is cruel to family members of victims because we can't put ourselves in that position. And, clearly, I think Dr. Petit is someone who we're all familiar with. And Dr. Petit believes that the death penalty is moral and is just. Someone quoted his comment before that his family got the death penalty and this repeal would give murderers life. Now that's his -- that's his opinion. And he's an amazing man. But, again, I don't think any of us in the circle should speak for the family members of victims. They could speak for themselves very eloquently on that issue, and, again, that's another argument that's been raised that need not be part of this debate.

Another argument that's been raised, Mr. President, and I could also watch some of the debate in the House of Representatives. There's a lot of discussion there about having a higher moral

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conscience if you're for the appeal. And no one in this circle has suggested that either side has a higher moral conscience on this issue because each of us has our own moral conscience and that's how we vote this issue. The part of that debate down in the House was about government being in the business of taking human life and how that does not -- could not be supported.

One of the ways I got to the conclusion in support of our death penalty statute in Connecticut is coming to the very uncomfortable realization that we, as a society, tend to differentiate between an unlawful taking of life, what we would call a murder, another taking of life. We all acknowledge and understand that any one of us in society can lawfully take the life of another in defense of ourselves or our loved ones. We all acknowledge and need the tremendous sacrifice and service of police officers who are charged with and allowed to use deadly force to take the life of another person in the line of duty when it is necessary. And, obviously, as a nation, we all -- or I do, I should say, understand the necessity of having a military and the need to protect ourselves if attacked, which obviously leads to a government and sanctioned and sponsored taking the lives of, perhaps,

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tens of thousands of people in war.

So these are very difficult issues. I happen to believe as a person of faith that someone upstairs is going to sort all those things out and I'm just here to do the best I can. But I think, on balance, and I certainly would say it's an extremely close call, Mr. President, on balance, I think our death penalty works in the State of Connecticut. And I think we should continue it.

I would also like to comment -- and Senator Doyle did a fantastic job so I won't spend too much time on it, but I think we do have to address the issue of the ten individuals on death row should this repeal become law because I have no doubt that should our death penalty statute be repealed that there will be lawyers, perhaps from the public defenders office or elsewhere, who will move in court and challenge the sentence of death on the ten individuals, probably, on some equal protection ground.

If you can challenge the constitutionality under disparate geographic treatment, that someone is more likely to get the death penalty were the murder to occur, say, in Waterbury versus New Haven, then certainly you can make a good faith constitutional challenge that now that the State has repealed the

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death penalty, the sentences of the ten people on death row should be changed to life without possibility of release.

Even if you were to disagree with that -- well, let me strike that and say that I think we would all have to agree that those cases would be brought, that attorneys would file that constitutional challenge. I don't know what the result would be, but, clearly, they would make -- clearly, they would make those arguments. But even if the court were to reject those arguments, we now have our Chief State's Attorney saying that, in good conscience, he could not seek the sentence of death because the State, as a matter of public policy, had repealed the death penalty. And I think he's right. I do think he's right.

So this is not a date -- this is not a debate about prospectively doing away with the death penalty. This is a debate about saying we won't have the death penalty in the State of Connecticut. And the ten individuals on death row and anyone else who might be in the pipeline facing trial or awaiting sentencing, will also not be sentenced to death. And I think we ought to talk about that because this is not simply just prospective, this is saying that Sedrick Cobb and Robert Breton and Courchesne and others will never be

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sentenced to death.

And there is a uniqueness about that -- consequence though, Mr. President, because what we would be doing by this repeal, in effect, although it purports to be prospective, what we would be doing is overturning the decision of a jury in ten cases. And that -- that is also something that is an extraordinarily rare and powerful decision we would be making.

Individuals, who sat on the juries in those ten cases, perhaps, performed one of the most difficult and trying acts of public service, sitting as a juror on a death penalty case in the death penalty phase. I imagine that's an excruciating experience, and we would also have to, I think, consider what we're saying to those individuals if we were to repeal the death penalty and the effect of the prospective repeal would be to also repeal the sentences of those ten individuals on death row.

I don't know if we've ever overturned a jury decision like that, as a legislature, Mr. President, but, in my memory, that would probably be the first time.

Mr. President, I guess one of the things I would -- I would leave with is that there was a professor

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from the University of Chicago -- and I'm getting back to the studies on deterrence here for a second.

There's a professor from the University of Chicago, who is opponent of the death penalty, who talked about the strength of the findings of legal scholars about the deterrent effect of the death penalty.

And he commented that if the recent evidence of deterrence is shown to be correct, than opponents of capital punishment face an uphill battle on moral grounds. If each execution is saving lives, the harms of capital punishment would have to very great to justify its abolition, far greater than most critics heretofore allege.

I think that's a pretty powerful statement that a professor at the University of Chicago, who is not a proponent of the death penalty, acknowledges that these very recent studies, as late as 2007, showing that executions via the death penalty leads to less murders and saving lives, is a very powerful, moral argument for maintaining the death penalty that we have.

Mr. President, I'm going to close my remarks by restating my opening remarks. This has been truly, I think, an extraordinary debate in this State Senate, and I am always proud to be a member of this body but

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extremely proud tonight to partake in it. There are probably other legislative bodies around the country who have or are or will engage in a similar debate. We've heard that there are 14 or 15 States -- I forget the number -- who have moved to abolish the death penalty and maybe more will, as well. And I bet you in some of those states, maybe in a majority of those states, the debates are a lot more heated, and we have those from time to time here as well. There's probably a lot more finger pointing. There's probably a lot more -- you're soft on crime or you're for murdering people type of accusations. I can't come up with better ones than that -- sorry -- but that clearly is not the debate that we've had here tonight. That clearly is not the debate we've had here tonight, and I think it has been an important debate to have.

I know the hour is late but this is and was important debate for us to have. Important for us to go the record to state for our constituents, the people who send us here to represent them, where we are on a very important issues.

Yet, at the same time, whether my districts were 90 percent one way or the other, I think my vote would be the same. It would be a vote of my conscience, a vote of what looking at the evidence before me, I

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believe is the best, most just punishment and policy for the State of Connecticut.

We have an extremely narrow death penalty. One applied in only limited circumstances. One applied to ten individuals. None of whom anyone would question their guilt or innocence. All of whom have engaged and committed some of the most horrific murders imaginable. And I think justice will be served with the meting out of their full punishment.

Thank you, Mr. President.

[SENATOR DEFRONZO OF THE 6<sup>th</sup> IN THE CHAIR]

THE CHAIR:

Thank you, Senator McKinney.

Senator Williams.

SENATOR WILLIAMS:

Thank you, Mr. President.

I rise to support this legislation, which would repeal the death penalty in the State of Connecticut.

The last time we debated this fully in the State Senate, I was chairman of the Judiciary Committee, and I'd worked with victims of crime because in a not too distant past, previous to that last debate, we, as a State, had amended our constitution. And we had provided some specific constitutional rights for victims of crime, but we found that those rights were



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not always being honored within our judicial system. And I joined my Co-Chairman Mike Waller of the House, and we put together a legislation to create an advocacy office for victims of crime to make sure that they were heard in the judicial system that their rights, now guaranteed by the constitution of the State of Connecticut were upheld.

And that process and, in point of fact, in working on many other bills, we solicited the -- the input of victims of crime -- different organizations that represent them, one organization, in particular, Survivors of Homicide. I got to know the people who are active in that organization. I got to know the families that were represented by that organization, got to see just a little bit of what they had gone through and the suffering and the torment that those families had felt as a result of a loved one being murdered.

Now, some of those folks did not support the death penalty, but many did support the death penalty. No one would suggest that it's appropriate to make a decision of what's fair or what's not fair from the point of view of that victim, of that spouse, that family member. But, even for the folks who supported the death penalty, what I heard time and time again

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were expressions of frustration with the death penalty because in our system of justice, what we really seek is justice that is fair; that is consistent; that is free from prejudice; that is applied in a manner that is not random.

Now, it was said earlier by Senator Gomes, and, perhaps others, that since 1973, in the State of Connecticut when the US Supreme Court said that the death penalty could be constitutional. Once again, in the United States, since 1973 and the reinstitution of the death penalty in Connecticut, there have been 4700 murders, 4700 murders. In that same time period, 13 people have been sentenced to death.

From the point of view of the victims of crime, I think it would be hard for us to say that only 13 of those 4700 murders were of a level that rises to giving the ultimate penalty that you would have in your State for committing murder. That's part of the source of the frustration for those victims.

In addition, as we know and has been said, death penalty prosecutions and the subsequent appeals take years, in some case -- cases decades. Why does that happen? Because when we're going to sentence someone to death and carry out an execution, a penalty that can not be revoked, our US Constitution and our

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Supreme Court says that that person must be afforded maximum due process and, consequently, it takes many years, many decades.

So, if we're looking for justice that is fair, consistently applied, free from prejudice, applied in a manner that is not random, can we see why some of these families feel so frustrated with a system that is inherently random.

Now, other issues have been raised in terms of the inequities of the death penalty. The fact that you can look at different geographic areas in the United States, different counties, state by state, different judicial districts in the State of Connecticut and find significant discrepancies in terms of who is prosecuted for the death penalty and who is not. Is that inconsistency fair? Is that part of our system of justice that is consistent and is not random?

What about a system of justice that is free from prejudice? We know about the statistics in terms of those of color and those of less income and what they face in our criminal justice system. It is not fair. There are tradeoffs.

For those who remember the celebrated case of O.J. Simpson, when he was accused of murdering two

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people brutally, in the State of California. The prosecutors, in that action, did not even attempt to bring a death penalty case against him. Why? One of the reasons that was given was he was represented by the Dream Team. He had the financial resources to go toe to toe with the prosecutor's office. Perhaps to outspend the prosecutor's office, and, on that basis, they said, we will not bring a death penalty case against a person who has allegedly committed two horrific murders.

However, in cases where there are defendants of little or no financial means, the odds are not in their favor. Is that fair and consistent in our system of justice? Is that justice applied in a manner that is not random?

Now, I believe that we have the greatest system of justice in the world in the United States. And I believe that the way we put this together with adversaries coming in to court, with a presumption of innocence for the defendant, with the prosecution required to prove their case. That we do provide for liberty and freedom. That we do avoid tyranny in our society to the greatest extent possible. That is what our great system of criminal justice affords us. But no system of justice is perfect.

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We are human. Prosecutors, judges, juries are human. Witnesses who take the stand, who take an oath to tell the truth, are human. Mistakes can be made. Mistakes are made. Nationally, since the death penalty was ruled constitutional, once again, by the US Supreme Court in 1973, 130 defendants who were convicted, who were put on death row, 130 have been exonerated. Mistakes are made.

Now, I believe those inequalities that I spoke of before, that are going to be inherent in almost any system of justice and that are present in ours, whether it's geographic, whether it's race, whether it's financial means. These are tradeoffs that we can afford when it comes to sentencing individuals to a term certain in jail. Where we know there is an opportunity to undo the damage if there was a wrongful conviction. And we have seen that happen across the country. We've seen it happen in the State of Connecticut.

Mistakes are made. Innocent individuals are convicted, and they are sent to jail because of human error. But what's remarkable about our system and what is part of human nature is our striving to even when we make the wrong decision, even when errors are made to try to make it right. And when someone is

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sentenced to a term certain in jail and they were sent there wrongfully, we have that ability. And how can we ever give someone the year or the five years or the ten years or in some cases the 20 years or more back when they are exonerated? They can never get those years back, but they still have their life.

Our system is not perfect. That is why I believe, the ultimate penalty in our system of justice should be life in prison without the opportunity for parole. It is a sentence that is certain. It does not result in the frustration that I have heard directly from families who have had loved ones murdered, who have had an expectation that the perpetrator will be prosecuted and sentenced to death, but it doesn't happen. It doesn't happen in the State of Connecticut, in terms of those 4700 cases since 1973, 13 death sentences less than 1 percent.

It also is just. It requires that that person is taken out of our society and is punished with a -- a term that is not only certain but that is indefinite and is forever. And, most importantly, it provides for greater trust in what I believe is the greatest system of justice in the world. Greater trust knowing that we are fallible that even the greatest system of justice is not perfect and that we have the ability to

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make good when we make mistakes because mistakes are made in this system.

I'd like to thank the folks around this circle. I'd like to thank the folks in the House. We debated this about 10 years ago or so. They're many different people in the circle then. We have many new folks now. It's important that we tackle tough challenges like this issue. It's important that we tell our constituents how we feel. That's our democratic process. It's important that we strive to have the best system of justice in our State and in the world. One that is consistent; one that is fair; one that is free from prejudice; and one where the results are not random.

Mr. President, I ask that we move this legislation forward, that folks vote their conscience and that, ideally, when the vote is taken that we repeal the death penalty in the State of Connecticut.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Williams.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

I was elected January 15th of last year in an

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special election and then sworn in on January 22nd, a week later, and I remember that day obviously very well, I had my entire family here lined up, my wife, kids, brothers, sisters -- a very proud moment of course. I remember the Associated Press taking a picture of us seeing my name go up on the board, and I looked around the room here and it's obviously awe inspiring. And I think everyone should really take it in everyday when they come here, and that January 22nd was a special session and we were taking up the Three Strikes Law -- Bill, what have you.

And I remember sitting here very impressed by all of you. The speeches that took place, the debate. And I sat here and I said, jeez, you know, I don't know if I really want to say anything, being the new guy and all, but then I thought about it a little longer and I realized how just having gone through a special election. I was pounding the proverbial pavement, if you will, knocking on doors, meeting with -- diners at coffee shops and at the local supermarkets and just talking to voters throughout my district. And to a man they talked about the Three Strikes Law and how the Cheshire home invasion was imbedded in their minds. And I said, Well, I'm going to speak on this. I'm elected. Im a state senator.



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I'm going to give it my best shot, and I remember doing that. I remember voting in favor of that bill. Ultimately, it did not pass, but I remember feeling very good about it.

This past summer, I had the opportunity to meet Dr. Petit, his sister Johanna. And I'll tell you I'm impressed with all of you, but I was moved by that man.

For those reasons, Mr. President, the clerk is in possession of LCO 7773, and I'd ask the clerk to call it, and I'd be allowed to summarize.

THE CHAIR:

Mr. Clerk, will you please call the amendment?

THE CLERK:

LCO 7773, which will be designated Senate Amendment Schedule A. It is offered by Senator McKinney of the 28th District, et al.

THE CHAIR:

Thank you, Mr. Clerk.

The question's on adoption?

Senator Kane?

SENATOR KANE:

Thank you, Mr. President.

I move adoption.

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Please move to adoption.

You may comment further.

SENATOR KANE:

Thank you, Mr. President.

What this amendment does, ladies and gentlemen, I think the debate has gone on for a number of hours already and -- and I have obviously stated my opposition to this bill.

We've talked about the many issues with the death penalty and how it can be fixed or repaired. My suggestion with this amendment would make it a capital crime if a person convicted of a murder of a person during a home invasion would be subject to the death penalty.

You know when the death penalty debate came -- came up back in February, Dr. Petit testified on the issue. And I remember, just earlier tonight, a number of people stated that it's harder to live with your crime than -- than be put to death. And I don't know if I necessarily agree with that.

In a news article that I have here from the Hartford Courant just after Dr. Petit spoke, and my apologies to Dr. Petit because I don't really want to bring all this back up. I'm sure he has to live with it every single day of his life. But he said that

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when comparing to people that are living, that maybe Michaela cannot make homemade sauce any longer, play with her friends or kiss me goodnight. Because men murdered Hayley, she cannot experience her college years at Dartmouth, row on the Connecticut River, or sit and chat with me. Because men murdered Jennifer, she can no longer comfort a student at Cheshire Academy, talk with her parents and sister or sit with me on our porch.

Mr. President, looking at another news article, all three women had signs of accelerants on or near them. Just a quote from the police report, One of the deceased was burned beyond recognition with indications that an accelerant was liberally poured on her.

Investigators wrote in a search warrant, The remaining two victims appear to have some indication of accelerant being poured onto them in close proximity.

This was brutal, awful, disgusting and the word "heinous" has been used many times tonight. This fits all of those criteria.

Ladies and gentlemen, if you commit a murder in the process of a home invasion then you should be subject to the capital murder charges that we have

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with the death penalty today.

I ask that the body support this amendment, and I ask when the vote is taken it be taken by roll call.

Thank you, Mr. President.

THE CHAIR:

A roll call has been requested.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I rise in opposition to the amendment, and it's important to note that as I indicated in my original comments that the underlying bill is prospective only. And notwithstanding the comments from Senator Kane, I think it would be a mistake to leave the impression that somehow anything in the underlying bill would affect the prosecution of the two defendants in the Petit case.

And I should also mention because I've heard the comment about what the Chief State's Attorney may or may not have said to members of the circle about existing death penalty cases. And it is, in fact, the case that the decision whether to pursue appeals rests with the state's attorney from the jurisdiction where the crime was committed. I would imagine that the Chief State's Attorney might have some input on that

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question, but at least for five of the individuals on death row that decision about whether to continue to pursue an appeal would be the decision of State's Attorney Connely in Waterbury.

But, Mr. President, more generally, I am concerned about this amendment because it would, in fact, restore a sentence of death -- or I should say impose a sentence of death for something that even under today's law is not something that by itself, as a home invasion, would qualify for a capital felony charge. There's certainly other instances where the circumstances of a home invasion could be part of a capital felony charge, but it is important to remember that all of the elements of a capital felony charge would still be available to prosecutors as murder with special circumstances.

And the underlying point of this legislation is to abolish the death penalty because it is precisely unworkable in Connecticut. And notwithstanding the fact that there are horrible factual stories, a amendment like this would serve to continue to propagate an unworkable criminal justice statutory scheme and, in my opinion, would be convoluted to apply and very unfair to the families of those victims.

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So I oppose the amendment.

THE CHAIR:

Thank you, Senator.

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

I rise in support of the amendment. I would note that conceptually what we are trying to do in this amendment is similar to what's been done over the years with respect to what had been and still is, until and unless this bill is adopted, consider it a capital felony, that is, we as a pub -- matter of public policy have identified those murders committed under certain circumstances, which we have concluded are so heinous, so egregious. Whether it's the murder of a law enforcement official, murder by a kidnapper of a kidnapped person, murder committed in the course of the commission of sexual assault, these are examples of some of the crimes to which the capital felony -- penalty would apply.

What we've done over the years is identified those murders and the context for a murder to occur, which are so serious that we believe they're worthy of the highest level of punishment. And I think one of the great benefits of the amendment proposed by

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Senator Kane is that we would be saying, as a matter of public policy, that the murder committed during a home invasion is of a similar level of seriousness to warrant the highest level of punishment. And I think that's appropriate because it's cliché, but if you're not safe in your own home, where can you be safe?

And one of the great violations that can occur in one's life is to have your home invaded by someone who intends to do you harm. And for someone to be murdered in the course of that kind of an event is something that I believe is comparable to the crimes for which capital felony is currently a permissible penalty.

And so for those reasons I would say that we ought to adopt the amendment because it is consistent with the approach that this legislature has taken in the past, and I think would advance an important policy goal, and for those reasons I will be voting in favor of the amendment.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

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Good morning, Mr. President.

THE CHAIR:

Morning, Senator.

SENATOR KISSEL:

I see it's about 20 of one o'clock in the morning and when we do eventually vote on this amendment, I would request that it -- be taken by taken by roll, and I would like to commend Senator Kane for bringing this amendment forward.

First of all, regarding the remarks made by Senator McDonald, I do disagree with your characterization as to whether the underlying bill is merely prospective. I understand that some of my colleagues here in this circle took an opportunity to speak to Chief State's Attorney Kane today, but I distinctly remember the Chief's State's Attorney speaking to us at the public hearing on the underlying bill and, at that point in time, the Chief State's Attorney specifically stated that it was his reason and considered legal belief, understanding that it is the decision of the individual state's attorneys as to whether to proceed, but it was his belief in reviewing the appellate decisions regarding death penalty and changes that had occurred in other states, that when the laws in the



other states had been changed, albeit prospectively, that that precise point was raised by the individuals that were still on death row and because the public policy of the state had changed, it formed in and of itself sufficient grounds, I guess, under equal protection of the laws and due process, to have that change apply to individuals retroactively, as well.

So I don't believe it's just simply a decision of the individual state's attorneys depending on the geographic area, and I don't believe that it necessarily wouldn't apply to crimes that occurred prior to the effective date, and I actually believe that the underlying bill would apply to folks that have already been adjudge guilty of capital felonies and are sitting on death row.

Now getting to the merits of the individual amendment. It had been stated, I think, quite succinctly and effectively by Senator Caligiuri that it is almost harkening that a person's home is where they should feel safe. A person's home is their castle, but he's exactly correct that what we're stating here by this amendment is that the crime, the underlying crime of home invasion is so horrible, it rises to the level that it should be one of those capital felonies that we already have delineated in

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the laws we have on the books.

It's very similar in some circumstances to kidnapping but instead of taking you and bringing you away from your surroundings what it is with the home invasion is -- is it's capturing you in the place where you should feel safest. What mom or dad would want their child to feel unsafe in their own home because someone broke in and committed a home invasion.

And by "home invasion," we're not simply talking about burglars who come in the dark of night or thieves that come in during the day and pose no direct harm or threat to the occupants. A home invasion is where someone busts in and they have it on their mind not only to ransack the home and steal the goods and the property, but they terrorize the family. It's not just the horrific events that took place in Cheshire to Dr. Petit's family. Shortly thereafter in the last year or so, remember we had that horrific event just down the road in New Britain. Wasn't it a Sunday morning and they were having a cup of tea or coffee and someone busted in -- a home invasion -- someone was killed? To my mind, that kind of an event definitely rises to the level of a capital felony.

We have all the other protections in the

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underlying statutes on our books. The balancing of aggravating and mitigating factors, the right -- the absolute right to take an immediate appeal to our Connecticut State Supreme Court. There are precise instructions as to what they are to look towards, as far as analyzing the findings of the trial court, whether that case was tried to a jury or to a three-judge panel. The other protections are in there as well. If you lose at the Connecticut State Supreme Court level, you can take and appeal to the United States Supreme Court. If you lose on that level, you can file habeas corpus petitions to the state authorities. If you lose those habeas corpus actions, then you can appeal that to the Connecticut State Supreme Court. If you lose there, then you can appeal that to the United States Supreme Court. And, if all of that fails, the defendant still would have the right to file habeas petitions in the federal appeals courts.

Our statutes have been finely crafted to afford the defendants the utmost ability to defend themselves. We have bent over backwards. I believe many of my constituents would say we have bent too far backwards. But, all of that stated, we have the protections that the appellate procedures give us. We

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have the fundamental protections that the balancing of aggravating and mitigating factors gives us and to say to our constituents that we don't feel a home invasion rises to the level of a capital felony when, at the end of the day, someone has been murdered in that process, I think is exactly against where I know my constituents, the vast majority of them, are coming from.

When you are defending yourself and you use physical force to the extent that you kill someone, it's my understanding, under the common law, that you have a responsibility to retreat to the extent that you can still protect yourself. And what I mean by that is -- and I'm going back 25 years now to my law school days -- it's my understanding that if you use the defense of self-defense but you have an ability to get out of that situation, run down an alley way, hop in your car and drive away, that before you take another person's life, you have to do that. But that all changes under the common law and notions if you're in your own home and that harkens back not to our own roots but it goes all the way back across the Atlantic Ocean to the underpinnings of our common law system in ancient England where, indeed, a person's home was their castle.

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You don't have to retreat from your home. You have a right to feel safe and protected in your home. If there's one place in the world, your son or daughter should feel safe and secure, it's in your home. Your wife, your husband, your grandparents, in your home, they should feel safe and what we're saying is if a convicted felon invades that home and commits a murder, then at least that forms the predicate for a state's attorney to file charges of capital felony and then the process that has worked so well in our state thus far in protecting and balancing rights between the public and the accused will move forward.

Mr. President, I strongly support this amendment.

THE CHAIR:

Thank you, Senator.

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, I join Senator Kissel in supporting this amendment, and I want to thank Senator Kane for bringing it out.

Mr. President, it is clear to those of us who believe that the death penalty is both just and a good deterrent that we would want to apply it to any case where a murder can be considered truly heinous. I

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don't think you'll see tonight, Mr. President, amendments coming out to apply this to manslaughter. I don't believe you will see us bringing out amendments to apply this to many lesser crimes, but when you think about the sheer brutality of breaking into somebody's home and murdering them, where they sleep, where they eat, where they raise their family, that rises to the level of deserving capital punishment, as just.

And, now, I don't expect my colleagues in the circle, who are against the death penalty, to vote for this amendment because we've had that debate. However, for those of us who do believe that the death penalty is just, I believe it is logical for us to see home invasion as the type of murder that is deserving of the death penalty.

Now, there's been a lot of talk about the highest profiled case that we've had in Connecticut, but that's not the only case that this is going to apply to and as a matter of fact this Senator McDonald quite accurately said it won't be applied retroactively, in and of itself. Instead this is going to happen again. It's an unfortunate reality but as we talked about before, the death penalty cannot be complete deterrent to murder, and there will be other home invasions

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where someone gets killed. We, tonight, can make sure that prosecutors, judges and juries have the tools at their disposal to make sure the punishment for those crimes are just.

Senator Kane has been very thoughtful in his drafting of this amendment. I want to thank him for bringing it forward tonight and would urge my colleagues to support it.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I also rise to support this amendment.

On August 16, 2007, in Cheshire, hundreds of people attended a rally at Bartlum Park, just miles from where the unspeakable crime occurred calling on state legislators to enact stronger laws and longer jail sentences to protect families from the hardened criminals who would terrorized them. It didn't matter that any Three Strike Law probably wouldn't have stopped the two men who allegedly tormented and killed a mother and two daughters last month in a crime that

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shocked the State and drew international attention. The message was constant. The system needs to be fixed. Our criminal justice system is one of expediency, bureaucracy, constraints and a lack of accountability said some of those individuals that attended that rally.

And I have to tell that my constituents who are many miles away but certainly heard about it and, in fact, there were a few that actually made the trip, all spoke in solidarity with this community and have been looking for -- and looking at us for a change to be made. They also started locking their doors a little bit more tightly after this happened. There was a great deal of fear that was created in our communities. They expressed their support for this law and were surprised and fairly unhappy that this law had not been enacted to date.

So I am grateful to our colleague and the Senate for proposing it right now and at least giving us one opportunity to vote in favor of it.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Witkos.

SENATOR WITKOS:



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Thank you, Mr. President.

I rise in support of the amendment, and I want to bring you back to some of the things that the proponent of the amendment brought out his initial remarks is that he had the opportunity during his special session to vote on the home invasion laws. Well, the home invasion laws became Public Act 08-1, and those laws became effective March 1, 2008. Well, not even a month later, we had a home invasion of the City of New Britain, where Lester Williams went in after following and stalking a 61-year-old woman. Not only did he proceed to rape her, he shot her in the head and left for dead in the basement. And then the other woman, her 66-year-old friend who was meeting to have coffee with, he brought her in her car, shot her in a sand pit where her body was later recovered that very next day.

Mr. Williams had spend some time in prison because he had been convicted of raping a five-year-old girl and while he was in prison he was remanded to attend the sex offender rehab, which he dropped out of. It didn't to -- it did not do to much for him. He finally was paroled, got out, and he continued with his life of crime. Two more of our citizens lost their lives.

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When does it stop? When do we allow the crimes, such as home invasion -- I mean, we had some of the most highlighted debates, news media coverage because we passed this bill, the home invasion bill based on what happened in Cheshire and not even a month after that this bill became law did we see two more of our citizens lose their life under our Home Invasion Law.

So I'm not so sure if we had anything on the books, is it going to deter crime. But if we can prevent one action, one deterrence, then we need to provide for that opportunity to prevent that from happening.

So, with that, Mr. President, I will be supporting the amendment.

Thank you.

SENATOR DEFRONZO:

Thank you, Senator Witkos.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, I rise in support of the amendment as put forth by Senator Kane. As people have been saying the home is a very sacred place, and I think I shared with the circle some time ago that my family and I, we had left our house and, inadvertently, I had

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left the garage door open and when I returned to the house -- and this was about six months after the Cheshire incident -- when I returned to the house my youngest had seen that the garage door is open and refused to go into the house until I got out of the car and searched the house from top to bottom, from attic to basement. That's how much that impacted my daughter, the Cheshire murders, and I didn't even realize as a parent how much that must have bothered her. We had not talked about it, but, obviously, she must have heard about it or read about it, but it had a profound effect on her.

I cannot think of a more intrusive crime than going into a house that people want to feel secure in, committing the violent act that we've seen in Cheshire, that we read about in Florida, New Jersey, all over the country. I was just reading an article online about a police officer from Stonington, chief of Police who said that people are no longer satisfied with breaking into a house and robbing the goods of the house. There seems to be more of a propensity to cause violence, the chief of Stonington said -- police chief.

You know, Mr. President, unless we do get tough on these issues, unless we do send the message as a

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policy maker in this state that we're not going to put with that type of behavior, I don't think we've done our job.

The impact of a home invasion not only extends well beyond the violent -- violence of the crime but when you mix it with murder or rape, as we've seen from time to time, we need to say that's not going to be tolerated and we need to have the harshest, harshest sentence on the books.

Now, people are going to say well, being in prison without the chance of parole is an extremely harsh sentence versus the capital crime for which you would be put to death but I've never heard of a plea bargain where someone is opted to be put to death as opposed to life imprisonment. I've never seen that plea bargain happen. They never say, oh, please don't put me in jail for the rest of my life; I want to be on death row. I've never seen that happen. So it runs -- doesn't seem -- the argument make -- does not make sense that being in jail for the rest of your life is as harsh a crime as capital punishment.

Mr. President, we need to be strong, and I know this is a difficult issue. But, when the Cheshire incident came out, I don't think there was any one of us, as legislators, who didn't feel sorry for the

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Petit family and wanted to do whatever we could to make a tougher crime out of that inci -- out of that unfortunate incident. We can't let the ball drop. I think -- it was suggested that this amendment would be a new additional crime under the capital offense and, Mr. President, if I may say, I don't think it is.

I think the way it is drafted is the act of a home invasion rises it -- or raises that incident to a level of a capital offense but without the mitigation -- or mitigating circumstances. Without those, you don't get the capital offense. You don't get death row. It's just saying, look we're -- if there's a home invasion, it rises it to that level to be examined. Then if the mitigation -- the mitigating factors are there, the aggravating circumstances are there. Then, we can say it rises to a death case. Absent that, we would fall back as every other law does under that scenario.

So this does not create a new category at all, at all. It's not a strict liability case, if you would, at all, in terms of home invasion death, therefore, capital, no. You still look at it with all those factors.

Mr. President, I know this a tough issue for everybody. But, when you look at this issue just on

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itself, just this one issue, it strikes a chord that if any place we're going to have the death penalty put on, it's got to be when you're in your house, someone breaks in and commits a murder, which have factors that make it cruel, you need to have a penalty that matches that crime. You just need that, therefore, Mr. President, I urge adoption of the amendment.

THE CHAIR:

Thank you, Senator.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

I rise in support of this amendment, and I thank my colleague, Senator Kane, for presenting this to us.

Clearly, our memories are still raw of experience of gruesome home invasion here in the State of Connecticut that of the Petit family in Cheshire. I had opportunity to drive through that neighborhood, not long ago, and I noticed that in the place of the home is a make shift memorial garden, a sad scene indeed. And I believe this is truly a important consideration for this body. When we look at home invasion statistics in the United States of America it is scary, frankly. The deport -- report from the US Department of Justice says that 38 percent of all

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assaults and 60 percent of rapes occur during a home invasion, and that 1 out of every 5 homes in America will experience a break-in or a home invasion. That's over 2 million homes.

The Cheshire story is not the only gruesome story that got worldwide attention. Some of you may recall that in November of 2007, the Washington Redskin star, Sean Taylor, was murdered during an overnight home invasion of his suburban home in Miami. Four perpetrators were arrested.

Unfortunately, really bad people get really bad ideas when they see it occur somewhere else. So let us send a message that if you're going to be a really bad person, we're not going to put up with it in Connecticut.

I urge adoption.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

I rise in favor of the amendment, and I'll say that there's always going to be a visceral reaction to the circumstances surrounding any kind of a situation

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that has called for capital punishment to date here in the State of Connecticut. The -- whether you're arguing for it or against it, there's always a spectrum, a range of different emotions that you will feel given whatever circumstances relate to you about the different situations some of which have been referred to tonight. And you can also, in your own mind, you can imagine maybe to a certain degree what these details -- these gruesome details are like upon discovery and you can drum up the different scenario -- or a thousand different scenarios along that spectrum of different emotions that you might have depending on what the details are of each of these different terrible crime scenes.

For example, when you think Columbine, you think about the tragedy that occurred in that school, and I believe it was a minor who committed it but, nonetheless, you have to sit there and ask yourself, how could this have happened in the first place? What went wrong? Was this person sane? Was this person insane and how do I feel about it and, perhaps, your emotions changed over the course of time.

Senator Harris made some very good points earlier on. He described a scenario where if something it happened to someone in his family or a friend of his,



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he would have an immediate visceral reaction to whatever the course of events was. And maybe after cooling off period, perhaps, he would change his mind a bit about what to do in terms of a punishment. However, for some people, I don't think that emotion -- that level of emotion, that intensity of emotion, ever changes. I don't think it changed for Dr. Petit. Given that, I think the sensitivity that we should have towards home invasion -- towards the home itself, as a sanctuary, where everybody should feel safe, that we work so hard on. We work so hard in our professional lives to create, to buy, to maintain, to make secure. This is an area that we should consider totally off limits to this kind of potential crime; and, therefore, I think that the amendment makes a tremendous amount of sense by sending out a message. The home is off limits. And we need to make that loud and clear -- that message loud and clear to any potential perpetrator's put there. I thank Senator Kane for raising this amendment, and I stand wholeheartedly in favor of it.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Frantz.

The question's on adoption of Senate A. Is there

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further comment?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

Mr. President, just briefly in support of the amendment. I think it's been said, but it needs to be clearly before the Senate, this is not establishing a new crime eligible for the death penalty. This is not an expansion of our current death penalty. This is setting forth, as a matter of public policy, that because of what happened in Cheshire, Connecticut, because of the importance that we all placed on the sanctity of the home and protecting our families in our homes that this is a category of crime that if the aggravating factors are there, as they were in the horrific Petit murders, that the person would be eligible for the death penalty.

We say that because it would appear that there is a will of majority to repeal the death penalty, which has much broader application. There are a number of crimes eligible for the death penalty, and we think that it is important to say that despite that interest in repealing all of them, maybe we should just take a look at some that are just so important.

Senator Kissel and others have talked so

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eloquently and, especially, when we talked about the home invasion laws we've passed about one's home being one's castle. We talked about how when people invade homes, especially, during the day -- during the nighttime -- excuse me. The people who go into homes at night have an expectation of confrontation. That there is a different criminal mindset to those who go into the homes at night and so -- and -- I don't want to relive the horrible tragic murders in Cheshire but because it happened in Cheshire, Connecticut, because it is so fresh in our minds. We've all had that discussion.

I remember sharing with the circle that in our house we had an alarm system that we rarely turned on, except for if we went away for a couple of days or -- but not at night just generally going to bed, hardly ever, did I tune it on you know after my wife and kids were a sleep. The very first night after the Cheshire murders, my wife said, Let's turn on the alarm. And I heard that from neighbors and friends and people I talked to about how all of lives were changed after that. We all felt a little bit vulnerable, more vulnerable perhaps than we did, and that was a horrible feeling.

So there is something tragic that happened and an

impact on all of us here in Connecticut, and if -- if as has been described by Senator Doyle and other's, the impact of the prospective repeal on the death penalty that the ten individuals on death row will not be faced and charged with that death sentence and what role the Chief State's Attorney might have with State's Attorney Connelly, I don't know. But I think the Chief State's Attorney still ranks higher on that totem pole.

This would still say, in that instance, as a matter of public policy, that under that home invasion, should the individuals in the Cheshire murders who have been charged with capital felonies, as I understand it, are tried and convicted of those crimes and a jury at a sentencing phase were to determine that the aggravating factors outweigh the mitigating factors. And I'd recuse myself from a jury right now because I certainly would think that the aggravating factors would outweigh the mitigating factors, but I shouldn't say that because I obviously don't know all the factors, but then, at least, in that case, those individuals if -- if found so guilty and so sentenced, would face that death penalty and be on death row in Connecticut.

And I urge adoption.

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Thank you, Mr. President.

THE CHAIR:

Thank you, Senator McKinney.

Is there further comment on Senate A?

Seeing no comment on Senate A, I'll direct a roll  
call vote be called.

The machine will be opened.

THE CLERK:

Immediate roll call has been ordered in the  
Senate. Will all Senators please return to the  
chamber. An immediate roll call has been ordered in  
the Senate, will all Senators please return to the  
chamber.

THE CHAIR:

Have all Senators voted? Have all Senators  
voted?

Mr. Clerk, you may close the machine.

Announce the tally.

THE CLERK:

Motion's on adoption of Senate Amendment Schedule

A

Total number of voting	36
Those voting yea	15
Those voting nay	21
Those absent and not voting	0

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THE CHAIR:

The amendment fails.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

The Clerk has Amendment LCO Number 7783 in his possession. Will the clerk please call the amendment?

THE CHAIR:

Mr. Clerk, will you please call the amendment?

SENATOR FRANTZ:

Thank you, Mr. President.

I move adoption --

THE CHAIR:

Just wait one moment, Senator.

SENATOR FRANTZ:

Thank you.

THE CLERK:

LCO 7783, which will be designated Senate Amendment Schedule B. It is offered by Senator McKinney of the 28th District.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

I move adoption to the amendment and would like

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to summarize.

THE CHAIR:

The question now is adoption, would you like to proceed?

SENATOR FRANTZ:

Yes, thank you, Mr. President.

LCO Number 7783 calls for a mandatory life imprisonment without possibility of release unless a death sentence is imposed on an individual convicted of killing a member of the state police or local police.

My colleagues, there is heinous and there's heinous both in not only the form that a crime takes circumstances surrounding the way is conducted but there is also a level of heinousness -- if that is even a word -- with respect to who that -- who is involved in that crime and who's the victim of that crime.

There are arguments for and against the death penalty. Some against the death penalty that are logical. There is no question about it, but I think many of us around this circle would agree that under extreme circumstances, again, whether you're talking about the circumstances of the crime or who is the victim of the capital crime that it is justified.

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There is a certain segment of the population that I think deserves to be recognized in this amendment here and that is the people who put on the uniform everyday and serve in police departments both at the state level and also at the local level and anywhere in between for that matter. We have members of police forces serving within this chamber and also downstairs in the House of Representatives. We owe a debt of gratitude to these people for what they do. They take a tremendous amount of risk, and they put themselves on the line every single day by putting that uniform on, and in most cases carrying weapons around with them and putting themselves into precarious situations on a regular basis.

They're doing this not because there is a great stock option package. They're not going to get incredibly wealthy off of doing this. They're doing it because they have certain level of passion for the community, for mankind, for kids, for cats stuck in trees, whatever the case might be. Yet, everyday they have to be combat ready. They may go for weeks or months without doing anything that is consider risky and, kaboom, in one second they're faced with a madman, who unfortunately has a weapon and is threatening them.