

**Legislative History  
of  
“An Act Concerning the Death Penalty”**

**Public Act 73-137  
1973 House Bill No. 8297**

Compiled from the following  
Connecticut General Assembly documents  
on deposit in the  
Law & Legislative Reference Unit of Connecticut State Library

16 Senate Proceedings, Part 4, 1973 Session, pp. 1861-1978.  
16 House Proceedings, Part 6, 1973 Session, pp. 2923-3003.  
Connecticut. Joint Standing Committee Hearings.  
Judiciary, Parts 1-2, 1973 Session,  
pp. 124-133, 144-186, 192-200, 369-373, 376-377, 407-410, 417-423, 426-  
428, 470-472, 474-480, 484, 488-497, 499-500, 510-513, 533-549, 550, 556-  
560, 569, 570, 576-579, 593-596, 601-602, 604-605.

*with*

items from  
the Permanent Bill File Archive  
of the Bill Room at Connecticut State Library  
and  
the State Document Collection  
of the Government Information Services Unit  
at Connecticut State Library

## PREFACE

This is the act which changed and considerably narrowed the circumstances in which the death penalty would be imposed. It created a new offense of capital felony which was limited to six specific homicide convictions. All other murders were re-defined as Class A felonies for which the death sentence would not be imposed. Additionally, the sentence for a conviction of capital felony could not be applied until hearings were held to determine if any aggravating or mitigating factors existed. In 1972, the U.S. Supreme Court had held that the imposition of the death penalty under existing procedures was unconstitutional. All executions were suspended while state legislatures adopted procedures which both clarified and restricted the application of the death penalty. Furman v. Georgia, 408 U.S. 238 (1972).

### Glossary of Terms

**Committee Bill:** During the 1973 session, Committee Bills were those bills which incorporated the *principles* expressed in Proposed Bills. The requirement that each Committee Bill have the same house of origin and number as the Proposed Bill did not yet exist. Thus, a 1973 Session Committee Bill would have a different number [and perhaps a different house of origin] than the number of the Proposed Bill which was culled for the principle on which the Committee Bill was based. Therefore, the record is silent as to which Proposed Bill served as the inspiration for Committee Bill 8297. -See 1973 Connecticut Joint Rules of the Senate and House of Representatives, No. 8.

**File-**This is the version of a bill which has been prepared for consideration in the House and Senate. Each favorably reported bill will be reviewed and reissued as a File by the Legislative Commissioners' Office. File versions have distinctive numbers which are separate from the bill number.

**Favorable Report-**a report compiled by the committee clerk on a standard form. Once the committee has conducted a public hearing on a bill, it will meet to determine if the bill merits a favorable report. The Favorable Report is a recommendation to the General Assembly as a whole that the bill ought to pass. Favorably reported bills are referred to the floor of the originating chamber, or to another committee for review. Also known as "JF".

**JF-** Joint Favorable, another term for the Joint Committee's Favorable Report. It is also used in the phrase "JF deadline", as each committee has a deadline for the reporting of bills. "JF" is the joint committee's recommendation to the full General Assembly that it pass a bill.

**LCO -** Legislative Commissioners' Office-The nonpartisan office headed by the legislative commissioners consisting of all the LCO attorneys and their support staff. They provide bill and amendment drafting services.

**OLR -** Office of Legislative Research-A nonpartisan office providing committee staffing, policy research, bill analyses, and public act summaries. Each committee except Appropriations and Finance, Revenue and Bonding is assigned its own OLR researcher.

**Proposed Bill -** a bill which is introduced by an individual legislator at the beginning of the session and which is not fully drafted.

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8. Joint Standing Committee on Judiciary. Favorable Report on Substitute House Bill No. 8297. "An Act Concerning the Death Penalty". April 4, 1973.
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25. Senate Amendment A, LCO No. 8703-rejected April 19, 1973.
26. Senate Amendment B, LCO No. 8601-rejected April 19, 1973.
27. Public Act 73-137 "An Act Concerning the Death Penalty". Signed by the governor on May 4, 1973. Effective October 1, 1973.
28. Connecticut General Assembly. Office of Legislative Research. Summary of Public Act 73-137.

**1.**

**Committee Bill No. 8297  
“An Act Concerning the Death Penalty”  
Introduced February 15, 1973.**

Committee Bill No. 8297  
Referred to Committee on *Judiciary*

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LCO No. 5480

Introduced by (JUD)

General Assembly,

January Session, A.D., 1973

AN ACT CONCERNING THE DEATH PENALTY.

CONNECTICUT  
STATE LIBRARY  
LEGISLATIVE REFERENCE  
SECTION

Be it enacted by the Senate and House of Representatives in  
General Assembly convened:

Section 1. Section 53a-45 of the 1969 supplement to the  
general statutes is repealed and the following is substituted in  
lieu thereof: (a) Murder is punishable as a class A felony  
unless [the death sentence is imposed as provided by section 53a-  
46] IT IS A CAPITAL FELONY UNDER THE PROVISIONS OF SECTION 3 OF  
THIS ACT.

(b) [Where the court and the state's attorney consent, a  
person indicted for murder may plead guilty thereto, in which  
case the court shall sentence him as for a class A felony.

(c) If a person indicted for murder waives his right to a  
jury trial and elects to be tried by a court, the court shall be  
composed of the judge presiding at the session and two other  
judges to be designated by the chief justice of the supreme  
court, and such judges, or a majority of them, shall determine  
the question of guilt or innocence and shall [, as provided in  
said section 53a-46,] render judgment and impose sentence.

(d) The court or jury before which any person indicted for  
murder is tried may find him guilty of homicide in a lesser  
degree than that charged.

Sec. 2. Section 53a-54 of the general statutes is repealed  
and the following is substituted in lieu thereof: (a) A person  
is guilty of murder when[: (1)] with intent to cause the death  
of another person, he causes the death of such person or of a

third person or causes a suicide by force, duress or deception; 37  
except that in any prosecution under this subsection, it shall be 38  
an affirmative defense that the defendant acted under the 39  
influence of extreme emotional disturbance for which there was a 40  
reasonable explanation or excuse, the reasonableness of which is 41  
to be determined from the viewpoint of a person in the 42  
defendant's situation under the circumstances as the defendant 43  
believed them to be, provided nothing contained in this 44  
[subdivision] SUBSECTION shall constitute a defense to a 45  
prosecution for, or preclude a conviction of, manslaughter in the 46  
first degree or any other crime; or (2) acting either alone or 47  
with one or more persons, he commits or attempts to commit 48  
robbery, burglary, kidnapping, arson, rape in the first degree, 49  
deviate sexual intercourse in the first degree, sexual contact in 50  
the first degree, escape in the first degree, or escape in the 51  
second degree and, in the course of and in furtherance of such 52  
crime or of flight therefrom, he, or another participant, if any, 53  
causes the death of a person other than one of the participants, 54  
except that in any prosecution under this subsection, in which 55  
the defendant was not the only participant in the underlying 56  
crime, it shall be an affirmative defense that the defendant: 57  
(A) Did not commit the homicidal act or in any way solicit, 58  
request, command, importune, cause or aid the commission thereof; 59  
and (B) was not armed with a deadly weapon, or any dangerous 60  
instrument; and (C) had no reasonable ground to believe that any 61  
other participant was armed with such a weapon or instrument; and 62  
(D) had no reasonable ground to believe that any other  
participant intended to engage in conduct likely to result in  
death or serious physical injury].  
(b) Evidence that the defendant suffered from a mental  
disease, mental defect or other mental abnormality is admissible,  
in a prosecution under subdivision (1) of subsection (a) on the  
question of whether the defendant acted with intent to cause the  
death of another person.

(c) Murder is punishable as a class A felony unless [the 63  
death penalty is imposed as provided by section 53a-46] IT IS A 64  
CAPITAL FELONY UNDER THE PROVISIONS OF SECTION 3 OF THIS ACT. 65

Sec. 3. (a) A person is guilty of a capital felony who is 66  
convicted of any of the following: (1) Murder of a peace 67  
officer, as defined in section 3 of number 138 of the public acts 68  
of 1972, or of any paid or volunteer fireman, which peace officer 69  
or fireman was acting within the scope of his duties; (2) murder 70  
committed after the defendant is hired to commit the same for  
pecuniary gain; (3) murder of another person by lying in wait; 71  
(4) murder committed by one who has previously been convicted of 72  
murder, either intentional or in the course of commission of a 73  
felony; (5) murder committed by one who was, at the time of  
commission of the murder, under sentence of life imprisonment; 74  
(6) murder in the course of commission or attempted commission of 75  
a felony by one who had previously been convicted of the same 76  
felony; (7) murder committed in the course of illegal seizure or 77  
attempted seizure of control of a commercial aircraft, train or  
commercial motor vehicle; (8) kidnapping of another person who 78  
dies during the kidnapping or before he is able to return or be 79  
returned to safety. Such death shall be presumed, in a case 80  
where such person was less than sixteen years old or an  
incompetent person at the time of the abduction, from evidence 81  
that his parents, guardians or other lawful custodians did not 82  
see or hear from him following the termination of the abduction 83  
and prior to trial and received no reliable information during 84  
such period persuasively indicating that he was alive. In all  
other cases, such death shall be presumed from evidence that a 85  
person whom the person abducted would have been extremely likely 86  
to visit or communicate with during the specified period were he 87  
alive and free to do so did not see or hear from him during such 88  
period and received no reliable information during such period 89  
persuasively indicating that he was alive.

(b) The sentence of death shall be imposed for a capital 90  
felony. 91

Sec. 4. Section 19-480a of the 1971 supplement to the 92  
general statutes, as amended by section 25 of number 278 of the 93  
public acts of 1972, is repealed and the following is substituted 94  
in lieu thereof: Any person who manufactures, distributes, 95  
sells, prescribes, dispenses, compounds, transports with the  
intent to sell or dispense, possesses with the intent to sell or 96  
dispense, offers, gives or administers to another person any 97  
hallucinogenic substance, amphetamine-type substance or narcotic 98  
drug substance or more than one kilogram of a cannabis-type drug 99  
substance, except as authorized in this chapter, and who is not,  
at the time of [his arrest] SUCH ACTION, a drug-dependent person, 100  
for a first offense, shall be imprisoned not less than ten years 101  
nor more than twenty years; and, for a [second] SUBSEQUENT 102  
offense, shall be [imprisoned not less than fifteen nor more than 103  
thirty years; and for any subsequent offense shall be imprisoned  
for thirty-five years] SENTENCED TO DEATH. 104

Sec. 5. Section 53a-92 of the 1969 supplement to the 105  
general statutes is repealed and the following is substituted in 106  
lieu thereof: (a) A person is guilty of kidnapping in the first 107  
degree when he abducts another person and when: (1) His intent  
is to compel a third person to pay or deliver money or property 108  
as ransom, or to engage in other particular conduct or to refrain 109  
from engaging in particular conduct; or (2) he restrains the 110  
person abducted with intent to (A) inflict physical injury upon 111  
him or violate or abuse him sexually; or (B) accomplish or  
advance the commission of a felony; or (C) terrorize him or a 112  
third person; or (D) interfere with the performance of a 113  
government function [or (3) the person abducted dies during the 114  
abduction or before he is able to return or to be returned to 115  
safety. Such death shall be presumed, in a case where such 116  
person was less than sixteen years old or an incompetent person 117  
at the time of the abduction, from evidence that his parents, 118  
guardians or other lawful custodians did not see or hear from him 119  
following the termination of the abduction and prior to trial and  
received no reliable information during such period persuasively 120

indicating that he was alive. In all other cases, such death shall be presumed from evidence that a person whom the person abducted would have been extremely likely to visit or communicate with during the specified period were he alive and free to do so did not see or hear from him during such period and received no reliable information during such period persuasively indicating that he was alive].

(b) Kidnapping in the first degree is punishable as a class A felony [unless the death sentence is imposed as provided by section 53a-46. When the court and the state's attorney consent, a person indicted for kidnapping in the first degree may plead guilty thereto, in which case the court shall sentence him as for a class A felony].

Sec. 6. Section 53a-25 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) Any offense for which a person may be sentenced TO DEATH OR to a term of imprisonment in excess of one year is a felony.

(b) Felonies are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D [and] (5) unclassified AND (6) CAPITAL FELONIES FOR WHICH THE SENTENCE OF DEATH SHALL BE IMPOSED AS PROVIDED IN SECTIONS 3 AND 4 OF THIS ACT.

(c) The particular classification of each felony defined in this chapter is expressly designated in the section defining it. Any offense defined in any other section of the general statutes which, by virtue of any expressly specified sentence, is within the definition set forth in subsection (a) shall be deemed an unclassified felony.

Sec. 7. Subsection (b) of section 53a-28 of the 1971 noncumulative supplement to the general statutes is repealed and the following is substituted in lieu thereof: Except as provided in sections 53a-85, [53a-46,] 3 AND 4 OF THIS ACT, 53a-92 and 53a-93, when a person is convicted of an offense, the court shall impose one of the following sentences: (1) A term of

imprisonment; or (2) a sentence authorized by section 18-73 or  
18-75; or (3) a fine; or (4) a term of imprisonment and a fine; 151  
or (5) a term of imprisonment, with the execution of such 152  
sentence of imprisonment suspended, entirely or after a period 153  
set by the court, and a period of probation or a period of 154  
conditional discharge; or (6) a term of imprisonment, with the  
execution of such sentence of imprisonment suspended, entirely or 155  
after a period set by the court, and a fine and a period of 156  
probation, or a period of conditional discharge; or (7) a fine 157  
and a sentence authorized by section 18-73 or 18-75; or (8) a  
sentence of unconditional discharge. 158

Sec. 8. Subsection (b) of section 53a-35 of the 1971 159  
noncumulative supplement to the general statutes is repealed and 161  
the following is substituted in lieu thereof: The maximum term  
of an indeterminate sentence shall be fixed by the court and 162  
specified in the sentence as follows: (1) For a class A felony, 163  
life imprisonment [unless a sentence of death is imposed in 164  
accordance with section 53a-46]; (2) for a class B felony, a term 165  
not to exceed twenty years; (3) for a class C felony, a term not  
to exceed ten years; (4) for a class D felony, a term not to 166  
exceed five years; and (5) for an unclassified felony, a term in 167  
accordance with the sentence specified in the section of the 168  
general statutes that defines the crime.

Sec. 9. Section 53a-46 and 53a-93 of the general statutes 169  
are repealed. 170

STATEMENT OF PURPOSE: To amend the statutes relative to 173  
imposition of the death penalty as required by Furman v. Georgia 174  
and specify those crimes for which there shall be a mandatory 175  
death sentence.

[Proposed deletions are enclosed in brackets and proposed 177  
additions are all capitalized, or underlined where appropriate.] 179

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Co-sponsors: REP. BINGHAM, 147th Dist. REP. COLLINS, 107th 182  
Dist., REP. MORANO, 151st Dist., REP. STEVENS, 119th Dist., SEN 183  
GUIDERA, 26th Dist.

2.

**Transcript of Public Hearing, February 15, 1973,  
conducted by the  
Judiciary Committee**

**Connecticut. Joint Standing Committee Hearings.  
Judiciary,  
Part 1, 1973 Session,  
pp. 124-133, 144-186, 192-200.**

JUDICIARY COMMITTEE

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Drugs, Alcohol, Capital Punishment

Committee Members Present: Senators: Guidera, Scalo, Finney.  
Representatives: Bingham, Webber, Neiditz,  
Stolberg, Morris, Sullivan, Jr., Ritter,  
Healy, Sullivan, Newman, Smyth, Freedman,  
Tedesco.

Sen. Guidera, presiding

Sen. Guidera: Provided in the rules, the Legislators will have the first opportunity to be heard, during the first half hour that's between 7:00 and 7:30. And at 7:30 the public in order of signing up on the sheet that was provided in the back of the room. I would ask you to keep your remarks as brief as possible. You are encouraged to submit written statements. If the remarks become too lengthy and we get too far into the evening we would have to adjourn and some people here tonight would not have an opportunity to speak. So I ask you to respect the other people in the room who would wish to speak. Make your point and as briefly as possible. Representative Brannen.

Rep. Brannen, 48th District: I would like to thank the Committee for the opportunity to speak this evening. I will not be addressing myself to directly to any of the bills that have been scheduled. With your kind permission I'll be speaking on the issue of marijuana. As you are very much aware I did propose a bill for legalization of marijuana. A bill not before this Committee, however the subject matter is before the State of Connecticut and I will not belabor you with my views at this point you already know them. I have asked people from the State that are knowledgeable considered experts in the area, of drugs to speak this evening and hopefully they will clarify any questions that you may have. My concern is that at this point that hopefully from the Judiciary Committee we may see during this Session at least a study program into the area of drugs. It is a major detriment to the State presently and it's my hope and from the people that I have talked to in my District, the hope of my constituents that we at least examine and define the drug problem in the State. That is all I have to say. Any questions, I'll be happy to answer them.

Sen. Guidera: Thank you Rep. Brannen. Rep. Neiditz

Rep. Neiditz: Mr. Chairman, I just wanted to ask the Chair's permission to read a statement in from a gentlemen who was here earlier today but had to leave. It's addressed to the Judiciary Committee. It's regarding HB-5953. The statement is as follows. It's very short.

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Rep. Neiditz reading statement of John J. Flynn, Avon, Connecticut:  
My name is John J. Flynn and I am from Avon, Connecticut. I am an International Representative with the United Auto Workers and the following testimony is on behalf of the United Auto Workers.

At our Constitutional Convention held in April of 1972, 3500 democratically elected delegates who represent 1,500,000 members throughout the country unanimously passed a resolution supporting the outlawing of the death penalty.

I urge the Committee to give proper consideration to our position.

I'd just like this entered into the record on their behalf.

Sen. Guidera: Thank you Rep. Neiditz. Rep. Stolberg.

Rep. Stolberg: Thank you Sen. Guidera. I'd like to also reserve most of my comments for later discussion. I would like at this time however to share with the Committee an article submitted by Professor Charles L. Black of the Yale University Law School, entitled the Crisis in Capital Punishment. Professor Black wanted to be with us this evening but couldn't and has submitted this article in hopes that the Committee will read it and consider it. I'll pass it out to the Committee. The thrust of the article is that basically that capital punishment is several hundred years obsolete and is no longer legally supportable.

Sen. Guidera: Thank you Rep. Stolberg. Are there any other Representatives or Senators at this time who wish to speak? I will remind the public that while after 7:30 the Senators and Representatives are to be completed the State Senate is in Session at this time. There is at least one State Senator who would like to speak and we may take him a little bit out of order but I hope you will indulge us in that. Rev. Irv Joyner, United Church of Christ.

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Rev. Irv Joyner, United Church of Christ: I have prepared testimony in addition to a number of letters that I wish to introduce into the record. For the record I'm Irv Joyner and I'm with the United Church of Christ, Commission for Racial Justice; Dealing with the capital punishment legislation.

There are two different bill numbers, I don't know which one we are supposed to deal with here. For several years now the Commission for Racial Justice of the United Church of Christ has actively opposed capital punishment. At our 7th General Synod of the United Church of Christ, a resolution condemning capital punishment and calling for its abolition was presented and approved. Our efforts were finally justified as the U. S. Supreme Court proclaimed capital punishment as unconstitutional

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Rev. Irv Joyner continued: because it was cruel and inhumane.

Tonight as I sit before you efforts are underway here in the State to subvert that historical ruling by the U.S. Supreme Court. It is unthinkable that at a time when loyal Americans are attempting to promote a sense of law, order and justice, that the Connecticut Legislature would be seeking ungodly means to subvert the Law of the Land.

We are opposed to capital punishment for many reasons. Most of the reasons you have already heard or you are familiar with. I want to emphasize just a couple however for your consideration.

Capital punishment has been designed for Blacks, other minorities and the poor. And statistics bear this out from across the country. Over 60 per cent of the people sitting on Death Row prior to the Supreme Court decision were black and over 99% were poor. Right in the State of Connecticut 2/3 or 66 percent were minorities and 100 per cent were poor. This is clearly an unequal application of the law. Capital punishment has been used only against the weak, the defenseless and the Black and there is no reason to believe that this will change in the future.

Even if that was not the case we would oppose capital punishment for it is against the laws as handed down by God Almighty. "Thou shalt not kill" is not a rhetorical statement, but a law to be observed. A law that no individual or state is excused from obedience to. Only God has the right to take the life of an individual because it is He alone that gives life. Now of course you being the members of the Connecticut Legislature can sit up on your thrones of power and pretend or believe that you are all Gods. You can pass this bill mandating death penalties to individuals for the various specific crimes as you propose, but that not make it right or legal.

It does seem ironic that you profess to be concerned about human life and development but advocate legalized murder by the State. That is what we are concerned with. What is the difference between legalized murder and illegal murder? Do the legalized victims suffer less? Does the family of the victims receive a new lease on life as a result of it? Does it keep other people from committing other murders, or does it simply satisfy some perverted desire to see people killed? Lester Maddox stated recently that there was not enough electricity in the electric chair and not enough rope in the gallows for him. He advocated hangings in the public square and on television so that people would be deterred from committing crimes. That is the most ridiculous statement or assumption made in the last week.

If executions deterred anyone, killings would have ceased centuries ago. That's what barbaric people did, an eye for an

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Rev. Irv Joyner continued: eye, a tooth for a tooth, a bullet for a bullet, a Vietnam for Connecticut.

The Black community is especially concerned about capital punishment. It is used against us to perpetuate genocide. We can't get a fair trial. We are discriminated against in hiring, promotions on the job and obtaining educational opportunities. When we get jobs and the Governor cuts out welfare and we rob the corner grocery store to prevent our families from starving we are sent to the gas chamber because we robbed for monetary or material gain. Our sons and daughters will eventually follow us if society continues to function as it has functioned for the past 100 years.

How can you rehabilitate a dead man? Does he have a chance to redeem himself? Can he be forgiven for his sins and allowed to return hopefully to society? Maybe you don't believe in rehabilitation. Maybe you are unconcerned with another chance. Maybe you just don't care about people.

We are interested in saving souls. We can't save souls if they are all dead. We are concerned about maximizing human life and development and not in destroying it.

We want to strongly urge you to kill this Bill in the Judiciary Committee. We want you to practice capital punishment on this inhumane piece of legislation. Do as the Georgia Judiciary Committee did, kill it before you allow it to kill other people, to prevent or deter other people from killing someone else.

Instead work with us to create a meaningful rehabilitation program and services that will aid all convicted persons make a better life for themselves. I have before me a couple of letters from ministers around the State of Connecticut that I just want to mention where they came from and give them to be placed into the record. I'm sure the Chairman received a letter from Rev. Nathaniel Gupton who is the Conference Minister of the Connecticut Conference of the United Church of Christ basically in opposition to capital punishment in the State. From the Dixwell Avenue United Church of Christ in New Haven, Connecticut, the Rev. Edward Edmonds the Minister there is opposed to capital punishment in the State of Connecticut. And the Wapping Community Church, South Windsor Connecticut, the Rev. Harold Richardson is in opposition and set a letter of opposition to capital punishment. At the Harwinton Congregational Church in Harwinton, Connecticut, Rev. Vernon Fern sent a letter in opposition to capital punishment. At the Park Street Congregational Church, Bridgeport, Connecticut Rev. John Olsen sent a letter in opposition to capital punishment.

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Rev. Irv Joyner continued: From the Social Action Committee of the First Congregational Church in Andover, Connecticut, Sister Althe Campbell sent a letter in opposition to capital punishment. The Rev. Edward Clapp from Portland, Connecticut at the First Congregational Church there sent a letter in opposition to capital punishment. At the First Church in Windsor in Windsor, Connecticut, the Rev. F. Gordon Parker sent a letter in opposition to capital punishment in the State of Connecticut. From the Congregational Church of Plainville, Connecticut, the Rev. George Kelsey sent another letter in opposition to capital punishment. From the First Congregational Church of East Windsor, Connecticut the Rev. Harry Miles sent a letter in opposition to capital punishment.

Gentlemen we ask you to set a positive example for the citizens of Connecticut. Put a value on human life by seeking its maturity. People watching the State kill people will somehow maybe get the idea that they have a right also to kill people. How can the state declare something illegal if they themselves engage in that same illegal act. Do not cheapen life by sending people off to die in the gas chambers of Connecticut. That is the end of my prepared testimony. I'll just enter that and these into the record. And I hope that the testimony to come meaningful in that capital punishment will not become the law of Connecticut. I'll answer questions that you have.

Sen. Guidera: Thank you Mr. Joyner. Mr. Kenneth S. McHargh. President of the Black American Law Students Association.

Mr. Kenneth S. McHargh: I've been asked to place on the record the position of the Black American Law Students Association at the University of Connecticut in relation to the bill to reinstitute capital punishment in Connecticut. The Black American Law Students Association is in unanimous opposition to the proposed reinstatement of the death penalty in the State of Connecticut, mandatory or otherwise. We feel that such reinstatement would- in cases where the common law requires the sentence of death upon a guilty person. The decline in imposition of the penalty in recent years further reflects the reluctance of society to take the life of another. In agreement Supreme Court Justice Brennan writes in the decision that in recent times what was once common occurrence in position of the death penalty is now seldom sentenced. And even less frequently the punishment inflicted. For here Justice Brennan the progressive decline in infliction of death demonstrates in our society that our society seriously questions the appropriateness of the punishment today. Yet instead of accepting the merit of the above position the proposed bill not only rejects the demonstrated

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Mr. Kenneth McHargh continued: disapproval of the death penalty it also proports to know when it is that the killing of another human being is the only satisfactory response to a particular offense. The conclusion drawn by Justice Marshall also writing in the affirmative decision parrellels the basic positon of the Black American Law Students. That is that the death penalty is excessive and unnecessary punishment which violates the eighth amendment. That we here today take notice of the fact that for more than 200 years men have labored to demonstrate that capital punishment serves no purpose, that life imprisonment cannot serve equally as well. And that little evidence has been produced to the contrary.

Finally that there is no rational basis for concluding that capital punishment is not excessive. On the issue of whether or not it constitutes cruel and unusual punishment Justice Marshall provides the following, in analyzing cruel and unusual punishment the language must draw its meaning from the evolving standards of decency and that mark the progress of a maturing society. Thus the penalty which was permissable at one time is not necessarily permissable today. Although at one time in our past we carried our execution in public places we are not bound to do so today. As we have developed as a people no longer do we condone punishment which condones great physical pain and suffering such as the use of the rack or other forms of torture. Why have we taken execution out of the public place. Was it knot because our conception of human dignity which allowedpublic executions has turned to blunt of that side show kind of a dealing with human beings. Yet those that feel that the death penalty is essential for purposes of deterr ence would advocate the reimposition of the death penalty in public places if it is in fact a detterent as they argue. I think this position is equally untenable. It is our contention that more rational conclusions to be drawn is that we as a people are ready to reject wholesale that sanction of the death penalty, State sanction of the death penalty, and are ready to share the responsibility of finding more effective ways of dealing with those we define as criminals.

Two major things prevade our society today. One is the cry for increased law and order, the other involves the recognition that we are in need of desperate need of prison reform. Those of us who are more enlightened including Chief Justice Burgher who dissented recognized that correctional systems has been primarily a failure which contributes rather than stems the tide of crime. Our response however has not been to increase the length of sentences and become more barbarous in our treatment of human beings when it has been more in the direction of lessening the totality of confinement and providing opportunity for personal development following conviction, following

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Mr. Kenneth McHargh continued: incarceration. Reinstatement of the death penalty on a mandatory basis is in no way a furtherance of that trend. But instead marks the reversion to simplicity which deaths were once satisfied in an untamed civilization. And in a safe and awesome manner we allow ourselves to sanction the death of another individual while we sit back in our Legislative hovers safe and unaffected.

Statistics show that the death penalty has been proved to be no greater deterrent than life imprisonment. No conclusive evidence can be found clearly to demonstrate otherwise. Increased numbers of minority people are entering the legal profession today indicating an acceptance of a chance to fashion new ways to find new ways of fashioning our response to dealing with those who have been convicted. With dealing with those who have found themselves in the criminal system. We are unwilling to accept society's inability to stem the rise in crime as a rationale for accepting the death penalty once again.

In conclusion I would like to say for these and other reasons we oppose the reinstatement of the death penalty in any form and rather we ask the Legislature to take the leadership in affirming the precedent already set forth in that the Country is moving ahead rather than backwards in the way it deals with its people.

Sen. Guidera: Thank you Mr. McHargh. Mr. William Webb.

Mr. William Webb: Today this Committee has a chance to either step forward with more progressive States in this country, 9 of which have already outlawed the death penalty, 5 of which have limited its use in case of treason or we can step back to the time of an eye for an eye and a tooth for a tooth. It is inconsistent with the American standards of the sanctity of life which this bill I understand seeks to uphold to impose the killing of another human being. Since the 1930's when executions averaged a 162 a year until today when executions as we all know have been temporarily suspended, we've gone through a period of gradual decline in the number of executions, reaching a high point in 1966 where there was only one execution. This was prior to 1967 when the Supreme Court Moratorium on death penalty went into effect. Historically juries have refused to impose the death penalty or have done so with great reluctance and in those cases where they have imposed the death penalty Governors exercising a greater wisdom I suppose have commuted those sentences to life. Also it's been not inconsistent with traditions in this country to seek to impose some greater standard on those people who we seek to impose the death penalty on. Among these automatic appeals in several

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Mr. William Webb continued: States forcing a reconsideration of a verdict, there has also been automatic provisions review by the Executive Branch. Today I think the question we face is clearly not whether death serves the purposes of protection of society or the purpose of deterrence of crime or whether or not death serves more effectively than imprisonment. We recognize the legitimate right of society to seek to protect itself. What I'd like to suggest is that either strengthening pardon or parole system, to keep those people we consider those people dangerous behind bars or in the alternative to provide some type of security while they are in there.

Society has a legitimate interest in being protected. However if murder, legalized how it may be is not furtherance of that interest. Has the history of punishment by death in this Country has shown our society wishes to prevent crime. Therefore we should have no desire to kill criminals simply to get even with them. Justice Black meant in Landmark decision of Furman vs Georgia although he voted with the minority that is he did not favor the abolition of capital punishment, said that he feared State Legislatures would reenact the death penalty. A situation he considered highly regressive. Thank you for the opportunity to speak.

Sen. Guidera: Thank you Mr. Webb. Mr. Dwight Kintner, Connecticut Council of Churches.

Mr. Dwight Kintner: Gentlemen I come this evening to speak in opposition to the bill numbered 8297 or an subsequent proposed legislation that would impose the death penalty. It was in 1962 that the constituent members of the Connecticut Council of Churches went on record in opposition to capital punishment in the penal system of Connecticut. On the basis of a number of reasons which have been renumerated many times and are well known among which it is the purpose of the penal procedure for the protection of society and the rehabilitation of the offenders and it is the responsibility of Christians to call upon the State to act with charity and compassion and whereas most penal authorities are in accord that capital punishments does not serve as a deterrent to capital crimes. We called upon the General Assembly at that time to abolish the capital punishment as it is ineffective and inasmuch as other safeguards for the protection of society could be made. Subsequent actions of the Connecticut Council of Churches have reaffirmed this position. It has been reinforced by substantiating statements from the individual churches, one of which was made this evening by Irv Joyner of the United Church of Christ. Other churches in

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Mr. Dwight Kintner continued: our constituance included the Lutheran Church of America, the United Methodist Church, the United Prespreterian Church, the American Baptist Churches, The African Methodist Episcopal Church Zion. In specific reference to the proposed bills on capital punishment for mandatory death sentence in case of certain crimes. While the mandaotry pjovision seems to be non-discriminatory we do not believe it will accomplish its intended purposes. Futher there is a gross moral inconsistency with the State to participate in an act which it condemns. There is further inconsistency with the stated objectives of the correctional system of the State. And further inconsistency with what we hold as the Christian hope of redemption of those who are involved in such crimes.

So may I reiterate the position of the Connecticut Council of Churches as being unalterably opposed to Capital Punishment in any form or for any reason knowing that other safeguards for the protection of society can be established such as recommended in your bill number 1651. Thank you for this opportunity to speak to you.

Sen. Guidera: Thank you Mr. Kintner. Mrs. Mary Ambler.

Mrss Mary Ambler: Thank you Mr. Chairman. My name is Mary Ambler. I am Program Consultanttfor the Connecticut Council on Alchol Problems which is a liason organization of the Connecticut Council of Churches. I would like to speak in favor of Bill 8139, but only to the philosophy involved which is to approach problems of alcbholism and public intoxication from a public health standpoint rather than as a matter of criminal law. Back in 1967 the General Assmby had a bill before it which was somewhat similar in intent to this. It was again brought up in 1969 and again in 1971. I think in 1971 it was SB-657. I would hope that you would go back and take another look at that particular bill because I feel that some of the provisions in that bill space out the progression in which the care and rehabilitation of alcbholics might more easily be coped with by the State of Connecticut than the provisions of this bill. But I do approve of the philosophy here. Thank you.

Rep. Neiditz: Excuse me. Question here. You're referring to 8139.

Mrs. Ambler: Yes.

Rep. Neiditz: I wonder if I might have in some later date in writing give what problems you have with this bill specificaly. It would be much more helpful to the Committee than just your general statement.

Mrs. Ambler: There are several people who would like to do that very much.

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Rep. Neiditz: Well they could do it in writing and send it to the Committee, it would be very helpful.

Sen. Guidera: Thank you Mrs. Ambler. Mr. Kessler.

Mr. Stanley Kessler: I am a Rabbi in West Hartford, Connecticut. And I am the Past President of the Rabbinical Assembly of the State of Connecticut representing more than 30 members of the Rabbinate who are members of Conservative Judaism. The, I speak with regard to Committee Bill number 8297 and but very briefly to indicate the opposition of myself and many of my colleagues to this bill on the basis of a tradition that though we know very well how it is at the Bible condones capital punishment. The fact is that the Jewish Tradition throughout the generations has stood opposed to the carrying out of capital punishment in any form whatsoever. The greatest of the sages and sages of Tradition were quick to point up their feeling that if they indicated capital punishment once in seven years it was a murderous. Indeed if they dared to put the death penalty once even in seventy years according to one opinion even once in seventy years that was murderous. Many of the great Rabbinic authorities alligned themselves with Rabbi Okeeba of the Second Century who claimed that he was unalterably opposed to any way whereby the law could indicate the necessity of the person being put to death.

A human being created in the image of God is the realization that the carrying out of the death penalty is a diacide. It is though it is putting God to death. Implication of this could be clear. Either society ought be finding other ways of dealing with even the most gross criminal act or that are to be found in our society. To reiterate my opposition to the bill as it appears to any form of capital punishment as may be exercised by the State. Thank you.

Rep. Frank Tedesco: Rabbi I have a question. Do you feel that abortion is equally as repugnant in the same context? Do you feel that abortion is equally as repugnant in the same context?

Rabbi Kessler: I would be happy to reply at little length or great length to this. My feeling is, I am not opposed to abortion. It is a private matter although is that the matter that is before the Committee now?

Rep. Tedesco: No. I ask that because apparently many of the opponents to the death penalty predicated their feelings on humanatarian grounds. And that the taking of a life is something that is

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Mr. Samsvick continued: is basically Christian. We must also recognize that the quality of mercy is something that we must exercise perhaps more as individuals than we can as society. After all the most that we can expect from society is justice not mercy. Mercy is a plus. That is what our society is based upon. We all cry for justice. Give me justice. And I agree justice. But I believe in the hearts of each one of us who have Judeo-Christian background, God has implanted the spirit of mercy too. And our laws reflect this. Especially the laws which have to do with the taking of life. Have I answered your question?

Rep. Stolberg: Thank you.

Sen. Guidera: Are there any other questions? If not thank you very much. Sen. Lenge.

Sen. Nicholas Lenge: Mr. Chairman Myname is Nicholas Lenge. I am Senator from the 5th district. I apologize for my inability to be here during the time reserved for members of the Legislature. We have just adjourned as you know. I appear here tonight in opposition to Bill No. 8297 which preserves and extends the death penalty. I appear in favor of Bill No. 1651 with which I am a cosponsor with a number of other Legislators including Rep. David Neiditz of your Committee. This bill abolishes the death penalty and substitutes life imprisonment and permits consideration for parole only after the prisoner has served a period of years equal to one-half of his life expectancy determined as of the time of sentencing. Though he would then be eligible, he must first be reevaluated in many ways and a determination of eligibility must be made by the Parole Board by a unanimous vote.

If such a determination is made, the Board would apply to the Superior Court for a hearing on the question of parole which would be granted by judgment of the Court on unanimous vote of a three judge panel. The Parole Board would be represented by the Attorney General and oppositions to parole, if there be any would be by the State's Attorney.

My position against the death penalty is not new nor is it the result of any sentimentality, squeamishness, pity or bias in favor of the criminal. Nor does it represent a disregard for the victim or his family.

It is my belief that it is the most sound position for society. In the briefest possible summation, I believe that this position evaluates the totality of adverse consequences resulting from two wrongful killings, the second of which is clearly preventable.

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Sen. Nicholas Lenge continued:

The death penalty is postulated on the so-called deterrent value. Although I hope I am not being repetitive because of appearing here late. And although a different position was presented by the previous witness. The premise regardless is the one and his conclusion was based on that as well. And I claim now as I have in the past that the premise is fallacious.

First there is a failure to distinguish between the deterrent value of the law as such on the one hand and the effects of carrying out that law. There are no convincing statistics that either the law or its execution have deterrent value. To the contrary, there are statistics which establish that those States and Countries which have abolished the death penalty are not places of by mere abolition of the death penalty of plunder, savagery and rampant killing. The truth and the fact is that there is no appreciable difference or distinction between the commission of crime between Countries which have the death penalty and those which do not.

Beyond question society can survive only if it has laws which are obeyed. The first condition of obedience is that the laws be just, that it be uniformly applied and that it be enforced. The stark truth is that many of our laws are not being obeyed or enforced as they were intended. So what legislative halls have decreed as being just or right in theory are repealed in fact.

In the increasingly impacted rapidly growing population in our society, our laws have taken on a new urgency of purpose. Physical survival now takes the highest priority. It is wrong to kill. It must be prevented. The policy of the law should be prevention.

The chief argument of capital punishment advocates is that it prevents killing because of the effects of the example resulting from the second killing. It is advanced on the proposition that the execution is of such a frightening consequence that it intimidates any one who might be tempted to kill.

This however is not so. There is no proof that fear of the death penalty has deterred any one who has made up his mind. To the contrary there is much evidence that it has much fascination for thousands of criminals. If the law and the administrators of the law and all mankind, which we call society believe that it were truly a deterrent and that the example would have beneficial result, then it would carry out the executions with swiftness and in public for all to see and be

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Sen. Nicholas Lenge continued: deterred. In fact society is so ashamed that it does what it does, when it does it at all, in secret, in silence, and at times when most people are sleeping. Revealed in its ultimate doing only by the euphemistic statements of eyewitness accounts. When the law is applied it perpetuates the killing of a criminal because for the most part this is the way it has been done for centuries and there has not been and is not any rethinking of the merits. In fact the condemned are dying in the name of theory which is neither proved or universally believed.

Capital punishment does not frighten, it does not intimidate or in any other way deter a man who doesn't know that he is going to kill and who makes up his mind in a state of frenzy or other condition that strips him of reasoning. Yet it cannot be denied that man fears death. Man does want to live. The taking of life is the supreme penalty. Legislators believed and still believe that the fear of death, resting as it does in complicated natures and mysterious as it is and perhaps the most powerful of incentives in human nature, should be they believe the greatest deterrent.

The error is in this legislative belief that this desire is the basis for all of mans actions. The law believes that the desire to live dictates all of mans conduct. What the law does not understand is that there are competing instincts. To live and to die. Self preservation and self destruction. There are perversions. Alcohol, drugs, other conduct the use of which lead an individual to his death knowingly. Full knowingly.

What the law fails to understand is that among other things some men desire to be nothing. The irreparable they desire and the irreversible. Put another way death for death's sake. This is another way of saying that the criminal sometimes wants not only the crime but the suffering that goes with it.

While the penalty is aimed at frightening everyone, it succeeds mainly with the normal mind. It does not reach the mind which never was or has ceased to be normal assuming normality to be a fear of death. A society that is regulated by fear as the dominating motivation may continue to exist but can never prosper. The strongest force in a free society is the self and willingly imposed regulation of its members. The policy of the law should be to encourage this.

Fear has never quelled human passion. With all of its euphemisms, detachment, removals, the death penalty in force for centuries, has failed. Crime persists. Man's instincts, motivations,

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Sen. Nicholas Lenge continued: desires are never static and are never in equilibrium. There are many forces and when a force leads one to crime, fear of death plays a role not before but if at all after the verdict.

Regardless of statistics and strained reasoning, there is no valid connection between the abolition of the death penalty and crime, other than as they are tied together by the law. The argument specious as it is is advanced there is no way of knowing who has been intimidated or deterred. What that means is there is no proof that it is not a deterrent. The fallacy is that this the supreme penalty, the taking of a life by man in the name of society is founded on unprovable and unproved possibility to be meted out on the chance that crimes might have been but were not committed and could be but will not be committed because of the death penalty.

We do not know and have no way of knowing of the killings that never occur because of the death penalty. Yet this is the strongest argument advanced for the death penalty. On the other hand as we do know the certainly of the killings of prisoners. If as I claim it does not deter and if as we know executions are hidden and performed out of public view, which would not be the case if the claim of deterrence were valid, then the only remaining reason for doing it at all is revenge for we must assume that men do not wish to degrade man and humanity by a punishment which truly debases man physically and morally.

Revenge is an eye for an eye, harm for harm, retaliation of primitive and savage man. Without justification based on proved deterrence, capital punishment would be the most premeditated of killings - a man killed by organized man. Society is thereby reduced to a primitive state. Brutal treatment replaces virtue, courage and intelligence. In primitive man, revenge was effected by an innocent individual against a guilty one. In organized man, the organized man is the alter ego of the single innocent man. No body can answer that question yes.

Organized man suffers by two killings. By death of the first innocent victim and again and even more so by its own act of killing. Because organized man does not want to kill, it does everything possible to circumvent the actual deed except the one thing it should do, abolish the death penalty.

Wisdom, true civilization exaltation of man all depend on reverence for human life. And true respect for it. It begins in the hearts of all individuals. It is nourished and fostered by the laws, the policies, and the conduct of the State. There can never be individual or social peace until all death by

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- Sen. Nicholas Lenge continued: the hand of man is outlawed. And according I ask this Committee to take the first step by acting favorably on SB-1651 at least on an interim trial basis for five years until this Committee can truly conduct an exhaustive research and analysis into the issue of deterrence so that it can be verified and completed co-extensive with our own experience with a law on the books that does not kill. Thank' you gentlemen.
- Rep. Ritter: Mr. Chairman I have a couple of questions I want to ask the Senator. Senator in rather few situations where you find an individual commits a murder and then commits a second murder at a time later, would you address yourself to that kind of fellow?
- Sen. Lenge: Yes, I think it is a fundamental question of the right to take life and for its deterrent value is prohibitive over the basic statistics as they apply in a plurality of cases. Then in this instance we are talking of a life imprisonment where there would not be eligibility for parole until a number of years equal to the life expectancy at the time of sentencing has elapsed. The prisoner under those conditions would then be involved in a second determination and a second life sentence for all practical purposes, its life without parole. He has forfeited any possibility of hope, the one remaining remote thing that would be provided for in the bill I advocate. I think that that coupled with other singular handling of such a prisoner would be the method of handling that situation.
- Rep. Ritter: You mentioned something about handling experience in other countries. Will you elaborate a bit on that?
- Sen. Lenge: Yes I think that there are of course many instances of that. There are many countries and some States which have abolished the death penalty, the perhaps the major country closest to us is Canada. And Canada's experience was pretty much as I have suggested to the Committee, an experiment for a period. And Canada at this time is undergoing a re-evaluation of that. And there are pressures on the Parliament in Canada to perhaps reconsider the prior action and to reimpose the death penalty. Some of the demands that are being made here under our conditions are being reasserted in Canada. And there is a vigorous debate going on there just as there is here. And the statistics have proved in Canada that in the period of time during which the death penalty has been abolished that there has not been an increase in the incidence of capital crime. And before I am challenged by that by anyone who is

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Sen. Lenge continued: reading recent reports on that especially in last weekend's newspapers, those who say there has been an increase have not read the fine print of the statistics which the small increase that shows in the total aggregate number results from a multiple killing.

So it is valid to say that the Canada experience is that the abolition of the death penalty was not followed by a marked or even an increase at all in the commission of crime of capital crime.

Rep. Ritter: Thank you.

Sen. Guidera: Thank you Senator. Mr. Gerard Ingalls.

Mr. Gerard Ingalls: Mr. Chairman I am Gerard Ingalls, Chairman of the Board of Directors of the Connecticut Prison Association. Whether a person believes in the use of Capital Punishment, and that's the right of the State to take the life of a person who has committed a crime, is predicated on one's philosophy of life. It is as simple as that. I can marshal before you statistics, opinions substantiating our conviction that Connecticut should abolish capital punishment. If you are like us and think that every life should be lived to its fullest, that when a life is gone it cannot be brought back, that revenge is barbaric and not humane, that every person's act must be understood in the context as to why he is acting out, then you will agree that capital punishment is not an acceptable solution to any of our problems.

When sentencing an offender at least three points should be considered. 1. This sentencing rehabilitates the offender so that he will not choose to commit further crimes. 2. This sentencing protects the public from further criminal acts by that offender. 3. The sentencing satisfies the public's craving for revenge. In the context of these three questions, what does capital punishment do?

How about rehabilitation? Obviously not, since you can't rehabilitate the person whose life you have taken. Protect the public? Very definitely. It is obvious that a man put away in confinement while awaiting execution will not be a threat to society. We can keep dangerous animals secure and humanely and we can also keep human beings securely and humanely and protect society. Indeed as this is going on there is always the hope that the person can be rehabilitated. And point 3 Revenge. Very definitely. Even with only one public killing in five years we feel that justice has been done. But is this really worthy of the State of Connecticut in 1973?

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Mr. Gerard Ingalls continued: Or does it carry us back to ancient time of tribal feuds and human sacrifices?

The crimes of murder and the second conviction of a nonaddicted seller of drugs are ones that the proposed laws would punish by the death penalty. Because of a lack of empirical information on capital punishment for drug offenders, most of my comments will deal with the crime of murder.

We all agree that murder is a terrible crime. Its finality and its quate of excruciating sorrow both infuriate and numb all of us. Our instant reaction is retributive. The murderer must pay with his life and we rationalize that is right and necessary. How understandable that first instinctive reaction for revenge. Then the first wave of shock passes and we begin the sober task of answering the question why? We have the insatiable need to find out more about the offender. Was his act one of passion? Was he under the influence of alcohol or narcotics? Was it uncontrollable acting out of a sick mind? The more we search out the extenuating facts, the more we find a that the offender is a human being like ourseives. Our heated hate begins to turn to reasonable evaluation. We are thankful we have beomce human again living in an understanding society.

When we look at the facts we find that many of the theories about capital punishment are simply not valid. I'dlike to point out a few of these to you.

Theory number one. Capital punishment is a deterrent and stops people from committing murder. A friend of mine was telling me about a Chief of Police in a nearby state who appeared before his state's Assembly arguing for capital punishment saying that it was a definite deterrent to those who might commit murder. A few months later this same man killed his wife in cold blood. A young man in a nearby State was executed in 1931 for killing a policemen. This murder took place just after he had received a prize in school for his outstanding essay on capitalpunishment. The former Warden of San Quentin Prison, Clinton Duffy said and I quote. "I have asked hundreds, yes thousands of prisoners, who have committed homicide whether or not they had thought of the deathpenalty a before the commission of that act, I have to date not had one person say that he has ever thought of the deathpenalty prior to the commission of the crime. I do not favor capital punishment because I do not believe it is a deterrent to crime."

Theory number two. Capital punishment is meted out equally. It has been often stated that a person with money and/or a

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Mr. Gerard Ingalls continued: good family and business connections is able to escape the supreme penalty. Governor Disalle of Ohio states: and I quote " During my experience as Governor of Ohio, I have found the men in death row had one thing in common: they were penniless. There were other common denominators, low mental capacity, little or no education, few friends, broken homes, but the fact that they had no money was a principle factor in their being condemned to death."

I would like Theory Number 3 to be talked about. Murderer is the most dangerous man to allow back into society. During the 20 year period from 1945 to 1965 a total of 273 persons convicted of 1st Degree Murder have been paroled in the State of Ohio. Of this number 154 have been granted final release. All of these had served five or more years under parole supervision. Four of these were allowed to leave the country and not return. Fifteen of the 273 which is 5 and 1/2 percent became parole violators. But of the fifteen only 2 which is less than 1/2 of 1 percent have been returned for the committing of a new crime. Yet these crimes were not crimes of violence.

Theory Number four. All people convicted of murder are without any doubt guilty. All human beings are fallible. Mistakes have been made in convicting men of murder that they did not commit. One such case concerned a man in a Southern State who spend 28 months in a death cell. Was twice sentenced to the electric chair was finally cleared when an ex-policeman confessed to the killing. Such mistakes may be reasonably expected to occur again and again in the future.

Theory Number 5. If you are going to release one murderer you have to release all of them. Indeed all murderers should not be released from custody in any great hurry. Some murderers are mentally incompetent and to allow them to resume their place in society in a short period of time would be inexcusable. Others have such a past history of felony that they are unsafe to return to society even after a long period of incarceration. However through the use of psychiatry, medicine or interventions yet unknown to us, they may be able to fulfill their rightful place in society again.

We have made progress in our system of criminal justice. Our emphasis today is, and should continue to be, shifting to the treatment of the transgressors of the law rather than punishment. Our institutions are no longer referred to as prisons but more properly correctional institutions.

Capital punishment is an ugly a scar on the face of our system of justice. We have kept it because it is more comfortable to

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Mr. Gerard Ingalls continued: cling to the old ways. People believe that it is best to sacrifice one man's life in the hope that others will learn the consequences of evil deeds and be deterred from following his example. They do this even with the barrage of evidence that proves it is nothing more than a hope. That proves that the death penalty is a failure and that we will never solve our problems of serious crimes by committing legalized murder.

Experience shows that the death penalty does not work. Capital punishment has never been, is not now, and will never be a deterrent to the potential murderer or drug pusher. Do you have any questions, gentlemen?

Sen. Guidera: Thank you very much. May I reiterate something that I said before. There are many people who wish to speak. We have 2 complete sheets and out of respect to those at the end of the sheet would you please keep your remarks as brief as possible. If you have remarks to make that others have made please associate yourself with those remarks and I think that would be sufficient. Thank you. Mr. Foster Gunnison, Jr.

Mr. Foster Gunnison, Jr.: I just want to say I have a great deal of admiration for Mr. Lenge who spoke before me. I just wish some of us Republicans could be a little more like him on some of these social issues.

Sen. Guidera: Sir we try to keep these Hearings non political and would you confine your remarks to objective testimony. Thank you.

Mr. Gunnison: My testimony is very short I have timed it from three to four minutes. My name is Foster Gunnison. I am from the Institute of Social Ethics in Hartford. And I am here to speak against the two capital punishment bills. It is with great disappointment that I find myself here tonight arguing against the re-establishment of capital punishment. So much progress has been made over the past ten years toward abolition through disuse when not through law that some of us had come to believe the worst was over and the past laid behind.

And that there would be continued progress toward abolition from here on out. But times have changed and people's attitudes have changed and so here we all are once again. One thing that has not changes however is the futility of capital punishment as a tool of effective penology. And the degrading effect it has on our society. And the demoralizing effect it has on the institutions and public officials required by law to associate themselves with it. I'm not going to repeat here any of the standard

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Mr. Gunnison continued: statistical pragmatic moral or theological arguments against capital punishment. They are all as fully valid as they were 10 years ago or 50 years ago. But they have been hashed over and over and I suspect are in danger of losing some of their impact through sheer repetition. I wish only to point out two things.

First we are making progress throughout this country and in our own State toward general penal and judicial reform. For the first time now vast numbers of citizens are being made aware reluctantly or otherwise of the desperate need for greater humaneness and greater practical effectiveness in the design and administration of our courts, our judicial procedures our penal methods and institutions, and our various other systems associated with the control of crime. And even some of our laws themselves. We do finally seem to be on the threshold of imaginative new approaches and major new progress in these areas.

But this trend toward massive reform, this great vision of progress in justice, is threatened with disruption by the intrusion of capital punishment into the picture. Capital punishment stands as the capstone of any penal system. Its symbolic effect on everyone is overwhelming. I for one cannot conceive of a whole-hearted, sincere, sustained effort toward penal reform with capital punishment remaining a part of the picture. The goals and values symbolized by these two things, progressive reform on the one hand, and capital punishment on the other, are simply too contradictory in spirit to exist together in the same judicial context. One has to give way, and I fear it might be penal reform.

Second, we must somehow bring ourselves to distinguish between the behavior of a society acting through its institutions and the behavior of individual members of that society acting on their own. It is one thing for a person to go astray and commit a revolting crime against another person or his society. It is quite another for society to respond in kind by stooping to the same level and striking back in rage, especially when other alternatives are available.

What I am saying is that society and its governing institutions must be better than the people. They must set an example to all citizens, good and bad alike, no matter what the provocation. They must remain above the level of barbarity that some citizens fall below. Society and its governing institutions must at all times stand as models of what is good and right and never shatter this image by responding with violence in frustration and anger. And the people must give their society and their institutions the encouragement to do this by not demanding the opposite.

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Mr. Gunnison continued:

I will conclude by saying that over the past ten years, I have had a bellyful of killing. I don't want any more if it by my country or by my State or by any other civic group to which I belong. I know of no crime where the difference between capital punishment and life imprisonment, if necessary without parole, is so great as to afford a measureable degree of deterrence. And it is my profound belief that sometime, somehow, somewhere along the line, whether it be in our relations with other nations and other peoples or in dealing with our own citizens here at home, we have got to find ways of handling our problems that do not involve killing.

Some other nations seem to have done this. Why are we so far behind? Thank you very much.

Sen. Guidera: Thank you. Lt. Raggazzi. Dr. Donald Pet.

Dr. Donald Pet: Ladies and Gentlemen, I am Dr. Donald Pet. I am a psychiatrist, chief of professional services with the Alcohol and Drug Dependency Division of the Department of Mental Health. Formerly I was Chief of the Male Addiction Service at the National Institute of Mental Health Clinical Research Center at Lexington, Kentucky. And during that time 68, I authored a paper with Dr. Ball on marijuana smoking in the United States. I'd like to make my remarks very brief and speak to the question of legalization or decriminalization of marijuana. I think first I'd like to state that its not should we or should we not. It's a very complex issue and one can be easily aware of that because it can stir up quite a conversation at any cocktail party.

There is no simple solution. It is a complex issue. I'd like to point out several facts. The active ingredient in marijuana was recently isolated, perhaps 5 or 6 years ago. Once a chemical is isolated one can alter it in a variety of ways so that we know have compounds of tetrahydricanabonale that are at least 10 times as potent, as the most naturally occurring hash or tectrahydricanabonale. So that we know we will be able to develop marijuana that will be in increased potency perhaps even approaching that of LSD. So one question I think we have to consider is not simply legalization or not but its if legalization what degree should potency be legalized, or if we legalize entirely should we also legalize LSD which may' have similar properties. I think we also have to consider the age. We have to remember that marijuana is a drug of young people whereas alcohol which is often compared is usually

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Dr. Pet continued: a drug of the adult population. So we also have to consider shall we legalize marijuana for the 6 year old, the 8 year old, the 10 year old. We have to consider how we would deal with this question. We would also have to consider at what time. For example would an airplane pilot be able to use marijuana because it is legalized as he would cigarettes. I think we have to remember that we are dealing not with just a chemical or drug but the people who use the drug. We know many things about marijuana. It has not caused an overdose in a human being, a death due to overdose to my knowledge. We can't say that for aspirin or most other chemicals. We have to consider some way of dealing with this. Not just with the chemical but with the person who using the chemical.

And I think that perhaps where we might need to go to consider the basic test which I think is the responsibility of the user rather than the danger of the drug. Perhaps we should consider the decriminalization and consider some situations such as driving where an individual must prove or show that he is responsible enough to use an automobile. If he is unable to do this, he may have certain kinds of consequences. Perhaps education or some kind of exposure that would teach him more effective use of the automobile. I know we are not socially prepared at this point but perhaps we are approaching the time when we can consider licensing people as we do to drive automobiles to use various chemicals.

I basically then feel that marijuana should be decriminalized. I'm not sure we are prepared for legalization. Thank you.

Sen. Guidera: Thank you very much Doctor. I have one question for you myself. One of the bills that was pending before this Committee involved decriminalization, I think it was SB-1014. How do you when you decriminalize you say that an individual can have a certain amount, 2 ounces, 3 whatever you want to set. How are you going to possibly police that? It seems to me that either you decriminalize it entirely or you legalize it entirely or you leave it the way it is.

Dr. Pet: I think we could respond with certain types of educational programs for individuals who are experimenting or who have small amounts. I think beyond that we may have to go to some kind of criminal penalty. But for the first time use, I would suggest some type of an educational program.

Sen. Guidera: I think perhaps what the majority of adults who have never used marijuana fear most about it is not so much the use itself and the effects of the drug itself on the

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Sen. Guidera: continued: individual as the reaching for the drug. Because the feeling is, their feeling is that if you begin to reach for that sort of thing, and this applies for alcohol too. If you begin to reach for that sort of thing you become dependent on that sort of thing, then it is going to lead to heroin, hard drugs and that sort of thing. Do you feel there is any fear of that?

Dr. Pet: Dr. Ball and myself in the paper that we published after the reviewing the literature suggest that marijuana is not causative of one leading to heroin use, but that it is associated. We have associated marijuana through the criminal penalties and through definition with heroin and the distribution I think leads to its association. Rather than as a causative factor. I do not believe myself that marijuana in any way leads one to a craving for heroin. And I think they may be associated in the distribution. We often have a psychodelicatesen effect. If one substance is not available, if one apples is not available, someone suggests another and we are seeing now this kind of rainbow or mixing of a variety of drugs. So I would not call that causitive. And I think its the laws itself that have often mixed the two. The penalties have been very much the same over the period of time.

Sen. Guidera: Thank you Doctor. Are there any other questions?

Rep. Neiditz: Yes I have one question, Dr., How would you assess the effect of incarceration for possession of marijuana to the use of marijuana, with relative severity of the effect on the individual?

Dr. Pet: Well many people as was pointed out on the previous speaker used marijuana and we know that a few of the users seem to get into some difficulty because of it. It's been rather difficult to say how much of this is because of the individual and how much is because of the chemical. So I think for some users there is potential danger. I think for most people in my experience who are incarcerated under our present methods of incarceration, the mixing of individuals who experiment with the chemical and may not be involved in a crimiaal subculture, the dangers in this situation are far greater.

Rep. Neiditz: One other question. I know you are not addressing yourself to it, but I was wondering if your appearing here as an individual and not on behalf of the Department or the Division, I wonder if we could get from the Department or your Divison some input on another bill. I'm not asking you for this tonight.

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Dr. Pet: This will be done and my understanding is that we did have someone who here tonight had arranged for a presentation. It will be made.

Sen. Guidera: Thank you Doctor. Mr. Edward Isenberg.

Mr. Isenberg: Members of the Judiciary Committee. My statement will be brief. My name is Edward Isenberg, Executive Assistant to Associated Restaurants of Connecticut. The 500 members of the State Restaurant Association wish to be recorded in opposition to HB-8082, which provides a two year statute of limitations under the Dramm Act for personal injury actions rather than the present one year limitation. In these trying economic times with rising food and labor costs our industry is caught in a tremendous cost price squeeze. Our insurance rates are high enough especially the Dramm Act insurance. We feel that any changes in the Dramm Act even if it is a change in the statute of limitations may very well have an effect on driving these insurance rates up and hence make it more difficult for us to survive. We urge you the members of the Judiciary Committee to please defeat HB-8082 as we believe it would have an impact on our industry. Thank you.

Sen. Guidera: Thank you Mr. Isenberg. Mr. William Olds.

8297 Mr. William Olds: My name is William Olds. I am the Executive Director of the Connecticut Civil Liberties Union and I speak here tonight in behalf of the CCLU. I have four pages but recognizing your time, I'll try to hit just the highlights. As you well know the Supreme Court in that Furman vs Georgia decision struck down in effect capital punishment in the United States. The majority of the Court agreed that the death penalty is cruel and unusual because it is imposed infrequently and under no clear standards. And I think it is interesting to note that all of the members of the Court with the exception of Justice Rehnquist, indicated substantial belief that the death penalty is arbitrarily applied and all again except Rehnquist indicated disbelief that it is uniquely effect in deterring crime. All of the Court again with the exception of Rehnquist indicated personal opposition to the death penalty and even the four dissenters in that Supreme Court decision of last year indicated personal opposition to the penalty and said that if they were Legislators again with the one exception Rehnquist that they would vote to abolish the death penalty.

The CCLU's opposition to the death penalty is based on several grounds. First we believe as we have for many many years that it represents cruel and unusual punishment in violation of

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Mr. William Olds continued: 8th Amendment. Society has erased torture as a means of deterring crime and other problems in society. The rack and the thumbscrew have been considered too barbaric for a civilized society. And I think the same attitude should be applied to the death penalty.

Secondly the death penalty denies due process of law. It forever deprives an individual of the benefits of new law or new evidence that might affect his or her conviction. A dead person cannot benefit by new evidence or new law that might be introduced.

Thirdly it violates equal protection of the laws protected by the 14th Amendment because it is imposed almost exclusively against racial minorities and the poor. These are persons who have been traditionally victims of overt discrimination in the sentencing process and who are unable to afford expert and dedicated legal counsel. Now there were two facts recognized by the Supreme Court in that historic Furman Decision, which buttress our entire case. Capital punishment they said does not deter crime, and secondly the administration of the death penalty has been provably unfair. We would agree that the Supreme Court Decision did leave some crucial questions. And it left some questions unclear. Obviously some Legislators and others feel that a so called framed death penalty law might be found acceptable on a second go round by the same Court. And a method to do this they claim is by making the death penalty mandatory for certain crimes.

While we think there is a strong practical case to be made against the mandatory death penalty, the history of the death penalty shows that juries sentencing discretion was established in order to avoid hung juries and to avoid acquittals. And often it was the prosecutors themselves who sought to give juries sentencing discretion so that they could get convictions. I think those of you who are lawyers would recognize that point. There is no evidence that juries are going to respond any differently in the future from the way that they have in the past. Mandatory death penalty will not eliminate discretion. They simply shift it from the trial jury to the prosecutors' office. Instead of leaving it up to the jury to decide whether to sentence to death or to prison, mandatory death penalty will allow the prosecutor to decide whether to indict for a capital crime or for a lesser offense, in order to risk, reduce the risk of the juries' refusal to convict. And there is no reason to believe that such discretion will be exercised without bias. Especially in death penalties' cases. It is very unlikely we feel also that the Supreme Court would allow such

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Mr. William Olds continued: discretion to prosecutors when it has denied comparable discretion to juries. Now there have been a lot of statistical studies which show that the higher rate of execution of blacks for rape and homicide cannot be explained by any factor except the race of the defendant. For example in Pennsylvania it has been shown that among the individuals convicted of felony murder and sentenced to death a lower percentage of blacks than whites eventually have their sentences commuted to imprisonment. I have the citations for that study included there. In New Jersey was shown that juries tended to bring in the death sentence for blacks convicted of a felony murder more readily than they did for whites convicted of the same offense.

Governor DeSalle of Ohio has noted that men in death row have one thing in common he noted that " the fact that they had no money was a principle factor in their being condemned to death." There was an examination of sentencing decisions by California juries which found that 42% of blue collar workers convicted of murder received the death sentence while the comparable figure for white collar workers was only 5%. That was in the Stanford Law Review in 1969. Again the power granted to juries and to prosecutors who select those who are to die without regard to standards and without regard to review creates great leeway to class and for racial discrimination. And a study shows that this is in fact very widespread. Now let's talk about the deterrence problem. Now everything seems to come back to that issue.

Crime statistics show that there is no higher homicide rate in States with the death penalty than in those without it. And the best known of these studies was conducted by Professor Thorsten Sellin at the University of Pennsylvania in behalf of the American Law Institute a few years ago. In a very exhaustive study, Professor Sellin showed that within groups of states having very similar social and economic backgrounds and conditions and populations that trends and homicide death rates were similar. And he said it is impossible to distinguish " the abolition States from the others." There has also been a United Nations Study which comes to basically the same conclusion. There were U.S. Senate hearings in 1968 on the abolition of the Death Penalty question. And those Senate hearings concluded that capital crimes are dependent upon factors other than the mode of punishment. The Ohio Legislature Service Commission in 1961 came to similar conclusions. I won't go into the details here. And I would also add that if there were any statistics to show that capital punishment in itself is a deterrent that the minority members of that historic Supreme Court Decision would have cited those statistics. And they did not. Three of the four dissenting Justices of

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Mr. William Olds continued; course declared it was not effective in deterring crime. Here in New England Rhode Island abolished the death penalty in 1852 and the murder rate in Rhode Island per one hundred thousand persons is no higher than it is in Connecticut. Maine does not have the death penalty. Maine actually has fewer murders per one hundred thousands persons than in the State of New Hampshire which has retained the penalty. The California State Assembly requested its office of research to report on the deterrent effects of criminal penalties and that study found that there is no evidence that severe penalties deter crime more effectively than less severe penalties. And so finally the issue really comes down to where does the burden of proof lie.

We feel that it seems very plain that the burden of proof ought to be on the proponents of legalized killing. Solid evidence should be made for the superiority of the death penalty as a deterrent. The burden of proof should rest with the State of Connecticut with the General Assembly, here with the Judiciary Committee. Especially where there is doubt about the necessity for interference with an interest of such a magnitude as life itself.

Now a very reasonable question that could be asked by any member of this Committee concerns with what do you do with a lifer. What about the person who is serving a life sentence. And I've thought about that. The studies show first of all that prisoners and prison personnel do not suffer a higher rate of criminal assault and homicide in states that have abolished the death penalty than they do in death penalty states. Professor Sellin's study brought that out and there are two or three other studies. An Ohio Legislative study also shows the same thing. Professor Hugo Bedau of Tufts University noted in his study that the behavior of life term prisoners shows that as a group they are the most reliable men in an institution and pose fewer threats to anyone. I have spoken to correctional officials here in Connecticut who basically say the same thing.

Former U.S. Attorney General Ramsey Clark says that there is nothing to indicate that the death penalty is needed to protect prison personnel from murderous assaults by life termers. And he went into some statistical results which I will include for you. There is enough of a deterrence I think already to prevent a person serving a life sentence from committing a homicide. To be specific a lifer after a certain number of years is now eligible to be considered for parole. If he kills another person while serving a life sentence he says in all probability removed any chance of gaining parole. Very doubtful

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Mr. William Olds continued: that a parole board is going to parole a man under those kind of conditions. And in addition a lifer who commits a homicide can be tried. And if he is convicted of a charge those extra years are going to be added on to his original sentence. Which is going to make parole extremely difficult if not impossible. What about police killings?

Professor Bedau of Tufts University conducted an exhaustive study in this area to show that the rate of police homicides is little different in the States which have abolished the death penalty compared to the States which have retained it. Now you will get a lot of personal opinion and a lot of feeling there. But the studies which have gone into exhaustive detail conclude that the evidence is not there to show that it is a deterrent even in the killing or the assaulting of a police officer which I do admit is a major problem today and has to be condemned. A study recently printed in the Harvard Law Review conducted by Professor Alan Dershowitz of that Law School came to the same conclusions again Sellin of the University of Pennsylvania said the same thing. The California State Assembly found that after five years of increasing penalties for attacks on the police, a Los Angeles police officer was almost twice as likely to be attacked as he was before the increases.

I think it is interesting to note that the Commissioner of Corrections here in Connecticut who I understand you are meeting with tomorrow afternoon at 3:30, Commissioner John Manson. If you look at the transcript of the death penalty testimony conducted two years ago before the same Committee would find that Commissioner Manson went on record stating that he was opposed to the death penalty. I would be surprised if tomorrow he were to indicate to this Committee that he had changed his mind. The former corrections commissioner also said he was opposed to the death penalty. The two prison chaplains, Father Matthew Shanley and Rev. Russell Camp at the Somers Prison are both opposed to the death penalty. They may be here tonight. I don't know. And I received a phone call today from the office of Bishop Joseph Donnelly, the Auxiliary Bishop of the Archdiocese of Hartford who is hospitalized but his office indicated that I could read a portion of his statement which he presented two years ago publically. And I'll just read one sentence. He said "only when the State recognizes the value of human life by rejecting capital punishment will we effectively reduce violence in our society."

In conclusion given the barbarity of the penalty and the chance of killing an innocent person, those who propose the death penalty I think bear the burden again of demonstrating that

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Mr. William Olds continued: it is needed for the protection of society. And such a burden has never been shown. It wasn't shown by the minority of the Supreme Court Decision. It's never been shown here in Connecticut or elsewhere.

Arguments from personal experience are inconclusive and again the hard scientific data overwhelmingly shows that the death penalty does not deter. Again mandatory death penalties are not going to eliminate those disparities. Discretion is simply again going to be shifted to the prosecutor's office. The Civil Liberties Union takes the position that the moral and legal principles and the factual evidence that persuaded the majority of the Supreme Court in 1972 to rule against death penalty destroyed the basis for reintroduction of the death penalty in any form for any crime.

I think it is also time for the death penalty to really be stripped of its disguises. It is time I think to evaluate the deathpenalty with facts and not with emotions. I think it should be obvious by now that it is largely a political emotional issue. I hope that each legislator will examine his or her viewpoints on the death penalty. I think the Legislature should be frank and open about what it is doing. It's a critical decision. What you do this year will probably stand on the books for a long time until it is perhaps struck down as we believe it will be by the U.S. Supreme Court. We urge Legislators to listen to their conscience when the time for emotionalism and for rationalization is gone.

I thank you.

Sen. Guidera: Thank you. Dr. Lawrence Albert.

Dr. Lawrence Albert: Gentlemen, Lady, I am here as a citizen tonight although I have spent the last ten years working in the criminal justice system. Attorney General Kleindist was quoted as saying the other day that basically he was aware that all of the evidence indicated that capital punishment did not work as a deterrent. But he feels that we should reinstate the death penalty anyway. I'd like to deal with the latter part of that statement, the statement part that says he feels that I think you've heard enough of the facts. I know that you've heard them not only tonight but if you have been here over the years, against what has not been a deterrent. Then in fact the public is most possibly by any mandatory penalty less well protected than they are by more discretion possibly. But it seems to me that the issue this year as I read it is not the facts, but how people feel. And it seems

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Dr. Lawrence Albert continued: basically to be an emotional and a political issue and I just want to say very briefly that I think each Legislator has to really look into his own conscience and see whether he or her is willing to risk somebody's life when the facts speak so clearly for their own political or political ends or because it makes them feel better. Basically that is all I have to say.

Rep. Neiditz: Dr. Albert you are with our State Correction Department?

Dr. Albert: That is correct. I'm at Central Office.

Rep. Neiditz: I know you are not speaking for the Department but would you say that amongst the professional with whom you have worked for the last ten years in their personal capacity both here and in other States that your feelings are similar to theirs in most cases?

Dr. Albert: Well I think there end result would be the same as mine, they are definitely against the death penalty for a variety of reasons some of which I think mainly on the facts, but I didn't go into those because you've heard them all.

Sen. Guidera: Rep. Stolberg.

Rep. Stolberg: Dr. Albert what is your current position with the Department?

Dr. Albert: I'm the Director of Rehabilitation Services with the Department of Correction.

Rep. Stolberg: Have you had that position over the entire period of time?

Dr. Albert: Well I've been here for less than four years and I was in the Massachusetts system for five years before that and with Youth Services in Massachusetts for, well before that.

Rep. Stolberg: Thank you.

Sen. Guidera: Thank you. Mr. Gary Broder.

Mr. Gary Broder: Members of the Committee, I'm speaking against capital punishment and specifically bill number 8297. At this point I have very little to add to this discussion. I completely agree with Mr. Olds of the Civil Liberties Union.

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Mr. Gary Broder continued: I have just a few points. In addition on the deterrent effect, the deterrent effect of the death penalty presupposes a certain amount of planning to kill ahead of time. A rational calculation of gain vs risk. However I ask what calculation is involved in crimes of passion or in situations where murder occurs where it was not preplanned. In almost all of the murder crimes specified in this bill, the weighing of risk will not occur unless the whole concept of deterrence will be negated.

A few of the specific crimes of the bill deserve special comment. Four of them are aimed at second offenders of various types. The fact that these offenders are back again indicates that the system has failed the first time around. The inhumane approach typified by this bill is to eliminate recidivism by eliminating the offender permanently. A more just solution is to deal with the causes of crimes and to deal with the offender as a person with the goal of making him a productive member of society. A provision dealing with non addicted dope pushers convicted of a second offense is absurd. If we are really concerned about the drug problem we should close off the supply of narcotics and secondly remove financial incentives to pushers by effectively treating addicts and even giving them their fix legally if necessary. Thank you.

Sen. Guidera: Thank you Mr. Broder. Mr. Ben Andrews.

Mr. Ben Andrews: I'm Ben Andrews. I'm speaking on behalf of the Connecticut State NN&EP as their service director. Of course I have a text also which I won't go into. I think myself Mr. Olds must be reading from the same script so I did therefore agree with the position by CCLU as well as ours. But I would just like to make one comment. When I'm speaking about capital punishment I'm talking about that. We have a problem that we have been experiencing throughout the country and we've been on it for several years. And our concern was the number of minority groups, particularly black at the time, our survey, reaching death row. And the reasons for the many poor people has been indicated in many of the surveys you've heard here tonight. By the Governor of Ohio and different people who recognize that fact. For this reason we have to continue to oppose it. My greatest concern I would think is because there is so little evidence that it is a deterrent. Whether it is changing anything in reference to crime or the nature of violent crimes. It would seem almost irresponsible for us to leave such a law on the book, any of us, citizen or what have you.

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Mr. Ben Andrews: It is my hope that this Committee do recommend against keeping the death penalty for that same reason. It seems like it would be a logical assumption that good faith and good judgment to oppose it and then go into an exhaustive study to so we could understand circumstances though so many people have come before me saying that so much is not understood. So much is not clear. We need prevention, methods nevertheless deterrence for the prevention of violent crimes, and capital crimes as such. However if we are so unsure on this, I see no reason for us not to get rid of the problem now; Be it on a moral issue or a basis of fact, and go into that kind of a study. I just want to record our message. And thank you for hearing me out. Thank you.

Sen. Guidera: Thank you Mr. Andrews. Will you leave a copy of your written statement with us? Thank you. Rev. Joseph Sheehan.

Rev. Joseph Sheehan: My name is Joseph Sheehan, I'm a Catholic Priest and I'm speaking for the Committee of Conscience for the Greater Hartford area. We are obviously opposed to capital punishment on moral reasons, for pragmatic reasons and for legal reasons. All the studies as you have heard this evening ladies and gentlemen, have pointed out very clearly that it does not act as a deterrent. It has been shown statistically that States that do have the death penalty do not have a lower homicide rate than those which do not.

It also has been shown that States which have abolished capital punishment have had no increase in criminal homicide. These statistics of course can be found in Reckles, Crime and Delinquency published in 1969.

Since one of the primary concerns seems to be for the safety of law enforcement officers, it should be stated clearly that in those states where capital punishment does not exist, police officers on duty do not suffer a higher rate of criminal assault and homicide than in those states which have the death penalty. In an administration that seems extraordinarily concerned with economy, we would point out that capital punishment is more wasteful of time and money than is life imprisonment.

It is more difficult and takes longer to secure a jury because of a general dislike for such cases. Trials become longer and more expensive, and emotions are especially likely to confuse the issues. Appeals are more likely to result in reversals, and this brings on new and obviously more expensive trials. In fact the guilty person is more likely to escape punishment altogether, because of the reluctance of the jury to convict

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Rev. Joseph Sheehan: and thereby make the death penalty a possibility. And so capital punishment is not a deterrent. It is uneconomical. And it is also discriminatory. It has been imposed largely against minorities, the poor and the uneducated. There is no question that a higher percentage of these groups are victims of unnecessary arrests. They become victims again in the sentencing process, as they are unable to afford adequate legal counsel.

This would seem also to be an administration proud of its conservatism. Surely the ultimate conservatism is the conservation of human life. We read and hear more and more of the sacred character of human life at all times. By adopting capital punishment as an official policy of retribution, we participate in a process that degrades human life, and thus brutalizes society. We ourselves become insensitive to the universal sanctity of human life, and to the God given values of compassion and decency in our relationships with one another. Human rights are obviously neglected.

Capital punishment rejects the possibility of rehabilitation and consequently destroys hope. With this in mind, we affirm our belief in the right to life, that of the guilty as well as the innocent, the criminal as well as the victim, the poor as well as the rich. Certainly we condemn murder, crimes of violence and drug dealing. However, we do not believe that one form of violence is remedied by another. Essentially the death penalty acknowledges our failure to believe in the principles of life and hope inherent in the heart of each and every human being. We reject capital punishment under any circumstances opposing House Bill 8297, and supporting Senate Bill 1651 limiting punishment to life imprisonment. Thank you.

Sen. Guidera: Thank you Reverend. Mr. Stephen Frazzini.

Mr. Stephen Frazzini: Good Evening. I'm Stephen Frazzini. I'm the Coordinator of Citizens for Better Correctional Institutions; we're a prison reform group in New Haven. I'd like to ajoin myself with remarks that have been made by Mr. Irv. Joyner, Mr. Olds, and Father Shaheen. I'd like to make one point about the mandatory nature of the death penalty. I think even if this Legislature makes the death penalty for certain crimes, the fact that the people who are convicted are going, excuse me. Regardless of whether the penalty is mandatory, its actual execution is going to fall more likely on the poor and on the black who didn't have the money to pay for a lawyer, who didn't

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Mr. Frazzini continued: have the money to pay for a high powered attorney who could show extenuating circumstances. I think a mandatory clause is still going to be cruel, unusual and I think it is going to fall unequally on the poor and the black. I have prepared remarks for brevity I am just going to hand them to you.

Sen. Guidera: Thank you Mr. Frazzini. Rabbi Charles Lippman.

Rabbi Charles Lippman: I'm Assistant Rabbi of the Congregation in Hamden. Rabbi Ketzler mentioned some of the traditional views on capital punishment. And I would like to point out the Jews have never been fundamentalists. And the idea of an eye for an eye was taken by Rabbis even from the time of Jesus approximately to mean that financial reparation should be paid for the loss of an eye and not that the perpetrators eye should be removed. I would like to read several statements. One is a statement by the Central Conference of American Rabbis in 1958. These are the Reformed Rabbis in the United States.

The question of capital punishment is now under official study in several states. The Central Conference of American Rabbis urges the abolition of the deathpenalty where it is still in effect. We are convinced that it does not act as an effective deterrent to crime. The Congregation Israel in 1959, the Board of Trustees of the Congregation passed the following resolution. The Board of Trustees of the Congregation Israel urges the abolition of the deathpenalty where it is still in effect. We are convinced that it does not serve as an effective deterrent to crime and is without a moral foundation. I would like to read other statement which was written in 1959 by the Union of American Hebrew Congregations. This is the Union of Reformed Congregations which represents approximately 1 million American Jews. We believe it to be the task of the Jew to bring our great spiritual and ethical heritage to bear upon the moral problems of contemporary society. One such problem which challenges all who seek to apply God's will in the affairs of human beings, is the practice of capital punishment. We believe in the light of modern scientific knowledge and concepts of humanit, the resort to or continuation of capital punishment either by a State or by the national government is no longer morally justifiable.

We believe there is no crime for which the taking of human life by society is justified, and that it is the obligation of society to evolve other methods in dealing with crime. We pledge ourselves to join with like-minded Americans in trying to prevent crime by removal of its causes, and to foster modern methods of rehabilitation of the wrongdoer in the spirit of the Jewish

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Rabbi Charles Lippman: tradition of tshuva-repentance.

We believe further that the practice of capital punishment serves no practical purpose. Experience in several states and nations has demonstrated that capital punishment is not effective as a deterrent to crime. Moreover we believe that this practice debases our entire penal system and brutalizes the human spirit.

We appeal to our congregants and to our co-religionists, and to all who cherish God's mercy and love to join in efforts to eliminate this practice which lies as a strain upon civilization and our religious conscience. Thank you.

Sen. Guidera: Thank you Rabbi. Ellen Vine. Ellen Vine, New Haven. Human Relations Council. Mr. James Reik.

Mr. James Reik: My name is James Reik, I'm a member of the Hartford Monthly Meeting of Friends, that is the local Quaker Church. And that Church has asked me to come here and record with you their opposition to capital punishment. As most of the other Church people have already said to you they feel, our Quaker meeting feels that life is sacred, that there is in each human being something of God. And that it is a wrong, absolutely wrong thing to do, to deliberately take a life, to kill a human being.

On that basis they oppose capital punishment. They also feel as has been said before that it is brutalizing society to require innocent people to be on juries, to participate in the execution of people and that the whole existence of capital punishment encourages the values which we would rather not encourage. Brutality, insensitivity and a lack of respect for the sacredness of life. Thank you.

Sen. Guidera: Thank you very much Mr. Reik. Mr. Emanuel Margolis.

Mr. Emanuel Margolis: Ladies and Gentlemen, of the Committee and Mr. Chairman, I appreciate the opportunity to be able to present my view before the committee, I am the a member of the Bar of this State. And I am the Chairman of the Section on Human Rights and Responsibilities of the State Bar Association. The Section has requested permission from the Board of Governors to take an official position on this matter in opposition to capital punishment. But the Board of Governors has not yet acted. So I want to make it clear that I'm necessarily here in an individual capacity and not in a representative capacity.

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Mr. Margolis continued: If you want to take representative with a small r, in that I have represented and am still representing Roberto DelGado who is one of the three prisoners in the State of Connecticut awaiting capital punishment. And at the time of the Supreme Court decision came down in Furman vs Georgia. And so in that representative capacity I think I know something about what it is to represent an accused who is charged with a capital offense and actually facing the electric chair.

I mention that not from the standpoint of trying to invoke any kind of special emotional response surely, but only in the sense that having been engaged purely to take his appeal and not represent him at the time of the trial. I know in a very first hand way the feeling that one has as to what it means and what it would mean in the face of my client and in that case, he had in fact suffered capital punishment as the law then provided. If he had then all of the defenses which I think are valid and reasonable and which need to be interposed in his behalf, perhaps not in a State form but in a Federal form would become totally academic.

I personally am of the view that eventually Mr. DelGado will be free in connection with this crime. For this elect crime. Again this is not the passion of an advocate. That is my real belief. But even if that belief is erroneous, if it is totally erroneous, the fact still remains that with your bill in its present form, in the event that another Delgado is convicted, in the connection with a police officer, it may very well be that another attorney trying to pursue an appeal for him at a later date may find that his client simply is not available physically to pursue that appeal. So the case will have been mooted in the most horrendous way. So from that standpoint I guess I'm here in a representative capacity.

It's very difficult for me to speak very much to limit myself in a fashion to say something that hasn't already been said. A lot of people have testified and I don't want to belabor your patience. I'd like to make some general comments and some specific comments and quit.

General comments I'd like to make, is that I would hope that the Committee recognizes the fact that it is with this bill being asked to take a giant step backward into the 19th Century or at best the early 20th. It is a regressive measure. It collides directly and in a most abrasive way with all of the trends of human civilization and of societies throughout the world which have over the past 50 to 75 years been eliminating capital

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Mr. Margolis continued: punishment from the criminal punishment repertoire entirely. I've called the Committee's attention to some statistics which I assume they do not have, hopefully has not been presented to it. I do it trepedatiously because so much evidence has already been presented. The fact that even if you begin in the United States the total number of executions in the United States starting in 1930 start with a figure of 155, in 1935 it goes up to 199, and then starting in 1940 a very clear and at point later on dramatic reduction later on in the number of executions in this country. So that by 1950 the figure is down to 82, by 1960 it is down to 56 and this is long before the Furman Decision of course. By 1963 it is down to 21, by 1965 it is down to 7 and by 1966 it is down to 1. This was the trend in the United States covering a period of 1930 through 1966. The bill that you are proposing now in effect seeks to reverse that trend. If the proponents of the bill really mean what they say, they are seeking to reverse that trend. Now maybe they have good reason for doing so. Maybe they feel that this will accomplish something in terms of the criminal law in the State of Connecticut. You've heard so much on the issue of deterrence, there doesn't seem to be any point in my adding any points on that.

I would also point out to the distinguished members of this Committee, that the pattern of these legal executions in the United States are worth noting in that of the persons of the 3,859, 059 persons executed since 1930, 33 were executed by the Federal Government, 608 by the 9 Northeastern States, 403 by the 12 Northcentral States, 509 by 13 Western States, and 2,306 by 16 Southern States and the District of Columbia. I don't think I need to comment on those statistics. The claim for deterrence again I don't want to get into that issue, because it has been gone into, but I think if you examine the claim for deterrence, again if the proponents mean what they say and their claim for deterrence is a claim cruelty. It is a claim that this kind of punishment is in fact so horrendous so final, so total, so inconceivable, that it will deter people from committing this offense. That's what they mean. And if that is the case, then the dilemma is created for the architects of this bill as to how you square that with the decision of the United States Supreme Court on the Furman Case.

The fact that it is cruel, I think is proven by the fact that the decision to use it in the way in which it is used is very carefully hidden from the public four ways. It is hidden from the public in the State of Connecticut as well. And will be if this bill is passed. Behind these executions for a reason, because we are disgusted to look at them, because the view of

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Mr. Margolis continued: them would make men sick. We hide them because they are public display would render them unacceptable and would flaut the dignity of man. I ask the question whether Committee or whether this Legislature is today would sustain a public execution as consistent with the cruel and unusual provisions of the 8th Amendment. I think that question needs to be squarely looked at and answered.

That's so much for general comments. In so far as the particulars of the Supreme Court Decision I think a careful analysis of that Decision creates again some very serious delémas for anyone trying to get around that Decision, which I assumed the proponents of this bill are attempting to do. The only way really, as I read the various decisions, various opinions rather by the members falling both the majority and some of members who formed the defending opinions, the only way to handle those opinions, to get around them, is if two horrendous nightmares can be blended by the ingenuity if you want to call it that of this Legislature and the other Legislatures similarly situated. And that is to guarantee that executions will in fact occur with sufficient frequency, so that they will not be unusual within the meaning of the 8th Amendment.

That's what you have to do. That's what the Supreme Court is saying to you. If you want to make executions legal executions acceptable so that they pass constitutional muster, then you've got to make sure that they occur frequently enough. A man who has been frequently identified as the swing vote on the Supreme Court in issues of criminals' law is Mr. Justice White. And I'd like to cite Mr. Justice White speaking precisely on this point. Mr. Justice White says and I'm quoting, " conclusion is that the death penalty is exacted with great infrequency even for the most atrocious crimes and there is not meaningful basis for distinguishing the few cases in which it is imposed from the many cases in which it is not. The short of it is, that the policy of vesting authority primarily juries, has so effectively achieved its aims, that capital punishment within the confines of the Bench, now before us, has for all practical purposes run its course. So if you want to meet the objections of Mr. Justice White, you've got to darn well make sure that these executions take place with considerable frequency.

The other aspect of the Supreme Court Decision that you've got to see to, if you really want to make this bill have a chance of passing a Court test, is to see to it that the death penalty

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Mr. Margolis continued: sentences are mandatory. Which is still, which is the a other part of the nightmare. And it's got to be tied in here, that is what calls for if you are going to get around the Decision of Furman vs Georgia. This is a clear thrust not only of the majority view but even the view of Mr. Justice Blackman who wrote a decision dissenting opinion and also jointed other dissenters in that 5 to 4 Decisión. It might be that with the enormous list set forth in Section 3 of Bill number 8297 we could in fact see to it that the seat of our electric chair does stay warm enough so that it willin fact meet the constitutional objections. But I do think that the implications of that ought to be very very seriously thought about and considered because it seems to me as though it is obvious what that means.

This bill as proposed is infected with all the symptoms of the apparent cheapness and relative importance, relative importance of human life. And the relativity notion is right in the bill. Which suggest quite clearly that some how or other some lives are more valuable than others. In other words the life of a law officer, the life of a fireman in the line of duty, is worth some how more I assume according to the provisions of this bill than the life of a Legislator in the line of his duty. Or the life of a lawyer, or a doctor in the line of his duty. It's remimicent or it brings to mind at least to me the famous quote in George Orwell in 1984 where he delcares that part of the laws of that particular animal kingdom, all animals are created equal, but some animals are more equal than others.

Now having made, gotten around the objections of the Supreme Court Justices on the 8th Amendment prohibition, I submit that this bill immediately raises serious due process and equal protection infirmities. And I would submit that if this bill were passed in terms of its constitutional viability, assuming you could get around the cruel and unusual punishment objections, I see very very substantial questions on the due process issues and the equal protection issue which was very clearly spelled out by the way in Mr. Justice Douglas' opinion.

I would like to hope that the members of this Committee, some of whom I know and some of whom I practice with in various ways and have opposed in other ways. But all of whome I have a geat deal of respect for; would in fact bear in mind in acting on this measure what our Supreme Court has said in other cases, represents the very essence of the cruel and unusual punishment provision of the 8th Amendment which by the way dates

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Mr. Margolis continued: back not to our Bill of Rights but dates back to the English Bill of Rights of 1689, that is really meant to reflect what our Supreme Court is calling the involving standards of decency, that mark the progress of a maturing society. It seems to me hardly in accord with that principle to suggest that we know go back 40, 50, 100 years and begin executions wholesale.

The dominant theme of the 8th Amendment debates by our Colonial forebears, that the ends of the criminal laws cannot be used to justify the use of measures of extreme cruelty to achieve them. No matter what you do in this area by way of Legislation, as has been pointed out, and I think it is so, and I hope you will talk to other people, lawyers involved in criminal practice as I am very deeply, and ask them whether it is so. No matter how you do it, the Leopolds and the Loeb's will not be sentenced to death under this bill. The William Furmans and the Lucius Jacksons, and the Roberto DelGados will be sentenced to death. I commend to you finally the statement of Mr. Justice Marshall in conclusion which I quote. It's a very brief quote. But I think it sums up my basic position. And the position of many other people who have spoken here tonight.

This is from Mr. Justice Marshall's opinion in the Furman Case. "At a time in our history when the streets of the Nation's city inspire fear and despair rather than pride and hope it is difficult to maintain an objectivity and concern for our fellow citizens. But the measure of a country's greatness is its ability to retain compassion in time of crisis. No nation in the recorded history of man has a greater tradition of revering justice and fair treatment for all its citizens in time of turmoil, confusion, and tension than ours. This is a Country which stands tallest in troubled times. A Country that clings to fundamental principles, cherishes its Constitutional heritage and rejects simple solutions to compromise values which lie at the roots of our Democratic system." If anybody has any questions, I'll try and answer them.

Rep. Sam Freedman: Mr. Chairman.

Sen. Guidera: Rep. Freedman.

Rep. Freedman: You spoke about 14th Amendment problems, both due process and equal protection. I wonder if you could submit something in writing to the Committee to summarize your views about that. Would that be possible?

Mr. Margolis: I would very much like to have that opportunity, if I may. I would like to have that opportunity, yes.

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Rep. Freedman: I think that would be very helpful. Thank you.

Rep. Neiditz: Mr. Chairman, Thank you for your very fine statement Mr. Margolis. I was wondering, and I've asked this question over the years before this Committee when people from various sections, or members of various sections of the State Bar Association have appeared before us, as individuals because the Bar Association has not had time to act or does not wish to act or whatever.

Mr. Margolis: In this case it is a lack of time, so far.

Rep. Neiditz: Well generally speaking we do here from them in official capacity, probate matter, on very minor matters and they seem to have time for this. I wonder if it just, as an individual member of the Judiciary Committee, that you might communicate with them at least one members' desire, who is a member of the Bar, but a former member of the State Bar Association for this reason, that on matters of such public import as this that our State Bar Association has a duty to take a position and take a position clearly and early on in the game and not wait until after our Session is over. I certainly don't mean to direct that at you sir. But I'd like somehow to get that message back to the Bar Association.

Mr. Margolis: Well I think the simplest way to do that would be if you were simply to say so by letter and if I were to have a copy of that I would follow it up personally.

Rep. Neiditz: Thank you very much.

Mr. Margolis: I'm very concerned about that same problem.

Rep. Albert Webber: I respect my colleague Dave Neiditz however whether we get an opinion speaking for myself, from the State Bar Association or from a Church, or from some other social or civic group would have the same impact. I can't see personally where an opinion or a position by the State Bar Association would be that important with me on this or any other matter. It is as simple as that. I am not a lawyer.

Mr. Margolis: I think the State Bar Association would be very unhappy to hear that but so it is.

Sen. Guidera: Thank you Mr. Margolis. I have a Mr. Robert Underwood please.

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Mr. Robert Underwood: I'd like to speak against the death penalty. And you've heard all the facts and you've probably heard them year in and year out. And most of the opinions for the death penalty really doesn't seem to be based on facts. And a lot of this probably is trying to find some way to deal with the homicide problem that we have. I know I spent a month on jury duty myself and it doesn't make me an expert on trials or anything, but even the people who screamed hang for the death penalty when it comes time for them even to use it themselves they take it entirely different view of it.

I've seen people do almost everything to get out of being on a jury for an important case. They'll be sick or they won't hear. All kinds of things. And this bill here which is 8297 in some respects is a step into the 1800's. Like Section 4, death penalty for what amounts to drug pushers. And Section 4 calls for execution of your neighborhood drug pusher. Now a few years ago Sen. Gravel did a study into who the drug pushers are. They found that many of the drug pushers are large corporations. They produce enough barbituates for every person in the country to die of an overdose. And when you watch TV the companies have ads telling you to use their products. They have magazine ads. And I think it is very unlikely that these people will be executed. They are very respectable people. They have lobbies in Congress. Maybe they do here. I don't know.

But they are nevertheless pushers. But I don't very much whether this bill will treat them the same as the neighborhood pusher. And that alcohol is a drug too. It's different because it is your drug. But it acts much the same way that heroin does. Some scientists believe that it cuts off oxygen to the brain and so on. This is also advertised. And you know are we going to execute package store owners? All these people do is supply what the public wants. They operate on the motive of profit. Nobody buys it they are out of business. And I think the death penalty does something to the people that inflict it upon others too. In a sense that it does cheapen the value of human life. And that if executions do become too common they will be an accepted way of life just like the weekend murders and traffic accidents. And the war casualties and everything else. And to the people who do think that the death penalty is a deterrent, there again the question why do they hide the executions. If they were a deterrent then they should be done at Bushness Park or something.

And many of the people I think anyway, who do want the death penalty want it simply because they don't have to have a part in it. They want you to have a favorable report that you bring before the Legislature, they want the judges to hang them. They want the police to go out and get them. They want

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Mr. Underwood continued: no part of it themselves. And if we drag them in for a jury you'll see just how much responsibility for it they are willing to take.

Sen. Guidera: I have Todd Taylor.

Mr. Todd Taylor: My name is Todd Taylor. I am the Director of the Connecticut Regional Crime Squad. I am speaking on behalf of the State Wide Enforcement Coordinating Committee which is made up of the Chief of Police from the 5 Regional Crime Squads operating in the State which were formed primarily to combat drug abuse by focusing on sale and narcotic violations on a multi town basis. There were approximately 25 bills proposed which would alter the present penalty structure relating to the illegal sale of and possession of drugs. I would very briefly like to offer to you the views and position of the Chiefs of Police coordinating the Regional Enforcement efforts against drug abuse in the State.

In general their position is one of opposition and to any change in the penalty structure for the illegal sale of drugs, either in terms of an increase in penalties or a decrease. Their position very simply is that the present penalties' structure as provided in Section 19-480 is sufficient for imposition for the Courts' criminal sanction upon these violations. If these penalties were uniformly used and applied throughout the Circuit and Superior Court systems then this present statute as construed would be adequate. At the present time there is in fact a wide disparity in the sentencing of drug offenders convicted of selling and in the conviction on the original arrest charge for the illegal sale of drugs. I think that the Judiciary Committee has done very well in perhaps rejecting a number of the proposed bills relating to the increase in penalties. I think what the Judiciary Committee should consider and concern itself with is addressing itself to the problem of inadequate, ineffective and discriminatory use of the present penalty structure. Why is there such disparity? And why is their reluctance to use the penalties? I refer specifically to the high number of suspended sentences that are meted out in the Courts. And I can also make reference to the failure to use provisions for fines in the Statutes up to \$3,000 for first offense, up to \$5,000 for a second offense. When it is clear that persons involved in upper levels of drug traffic, above the street level, the user or the addict, is clearly involved in drug sales for a profit motive and accumulates large sums of money. I ask you gentlemen to look at the number of times a fine has been imposed in these

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Mr. Todd Taylor continued: situations. In referring to the specific bills before the Committee this evening the bill 8297 the death penalty, would alter that section 19-480 to provide for the death penalty or the conviction of illegal sale of drugs for a non drug dependent person. Committee's position, Chiefs of Police would very simply be that it would serve no effective purpose as a deterrent to the act of selling drugs and is not commensurate with the act. Additionally there is no evidence to suggest that it would in fact serve as a deterrent to the illegal sale of drugs, let alone other criminal acts in general.

Very simply the death penalty is not a logical, well conceived solution to the problem of drug abuse which is simply an emotional response to a very complex social problem. In bill 8087 related to the sale of illegal drugs by a non drug dependent person, in general our enforcement experience we would support this bill. I think it is very necessary to differentiate between the drug user who sells drugs to support his physical addiction and maintain a state of dependency on the substance. And that distinction between a person who is involved in drugs primarily for profit. The specific bill would change, refers to different penalties for a person who is not dependent upon the substance, specifically it would change it to the time that the offense occurred. I would submit to you that in the efforts of our investigation particularly undercover efforts in which sales transactions are involved significant time can lapse from the time of the offense up to 60 or 90 days between the occurrence of the offense and the arrest of the person. Many persons are able to get around this, the whole question of a non drug dependent person who is involved in selling drugs by claiming their dependency at the time of arrest when he is aware that in fact has made a sale to an undercover police officer, or that a warrant is outstanding for his arrest. I think that Bill number 1546 which is before the Committee which would consider a number of issues relating to the claim of persons being drug dependent in terms of their standing trial for criminal action would help eliminate this problem of getting around the assumption that they are in fact drug dependent when they, we know they are not.

I would point out however that there is a very difficult problem of defining what is a drug dependent person, particularly for substance other than heroin which is our only known physical addictive substance. Are we going to consider such things as psychological dependence upon a hallucinogenic substances or amphetamines and barbiturates.

Bill number 8109 relating to the penalty for the sale of controlled drugs. This bill would eliminate the minimum sentence of five years on first offense. In general we support this bill if the intention is to provide flexibility and not present in

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Mr. Todd Taylor continued: the Section 19-480 as it is presently construed, which has resulted in reluctance to make a conviction on the sale charge as resulted in a great number of suspended sentences although conviction is passed and a failure to use fines. As I said before we recognize as law enforcement officers the need to differentiate between the relative dangers and harm of substances covered under Section 19-480 in controlled drugs.

I would however say to the members of the Judiciary Committee that this bill does in fact leave open the possibility that sentences and court sanctions which are light and insufficient according to the present law in terms of high numbers of suspended sentences and failure to convict on the original charge. Because of the fact that the sentence would require five years. I would say you would also open the door to the problem of saying well we can also become even more lenient in terms of those sentences. In differentiating between substances I think that the Committee has to be aware that were a person to be charged let's say with the sale of a lesser substance in terms of harm or potency there is in our experience in enforcing the narcotic laws particularly from the sale end, particularly we're dealing we would consider above street level, the middle levels, wholesalers, very often an arrest can be made, a case can be made on an individual for selling a lesser harmful substance when it is known in fact that this person is dealing with other substances. I can cite you many examples and not because of the length of the hearing this evening, of persons who will in fact be selling marijuana in large quantities, I'm not talking ounces as we discussed earlier. I'm talking pounds, kilos, 25, 50 pounds. These same persons who have sources, connections and availability to other controlled drugs, amphetamines, barbiturates, LSD and hash heesh a stronger form of the active ingredient THC in marijuana. If the minimum sentence of 5 years were reduced to provide the flexibility to deal with the lesser substances as is the stated purpose of the bill, it could leave open the door that this person would come to court and be convicted of this charge of sale of marijuana and the court at the present time would say that this is a lesser substance therefore we will treat it accordingly when we know in fact that this person is dealing with other substances just as harmful.

I would for a minute like to address myself to, it is not my understanding that this bill was to be considered part of the Public Hearing, but the comments made relative to the bills 7068 and 1014 relating to marijuana. I would agree with Dr. Pet at the present time the way these bills read and in the form it does not make distinction for the problems relating

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Mr. Todd Taylor continued: to regulating the potency of the active ingredient THC nor does it take into consideration various user groups who would be using the substance.

I would however in referring back to my comment that the Chiefs coordinating these regional crime squads, this drug enforcement effort feel that the laws at the present time provide the penalty structure. I would point out to you that the problems when the court in the position of judges feel that in fact the marijuana is a lesser substance and impose lesser penalties and to this extent I would disagree with the gentlemen from New York that said in Connecticut we put people for possession of drugs in jail. I submit to the members of the Judiciary Committee we put varied people in jail for selling marijuana. Now I point out to you the hands that you are tying of the law enforcement officers who are put in the position of enforcing laws that are on the books and the Judiciary which does not take cognizance, or let's say the Judiciary does not take an equal view of the laws which are on the books. The enforcement officer is put in a very difficult situation and he must direct his resources to that area if in fact it is still a violation.

Now in our enforcement efforts we try to direct our resources to what we feel are the most serious problems. We are not concerned with the Keystone Cop image the gentlemen from New York presented concerned with the organized structures and distribution channels that develop around the distribution of drugs.

I would just like to add one other comment that the problem of enforcement of drug laws is not an easy solution. As I said we are dealing with a complex social problem. I do think that the Committee should however given these discrepancies and the disparities in the sentencing process at the present time should give consideration not only to bills which are considered for Public Hearing this evening, but the entire drug penalty structure as it relates to different substances and the bind it puts law officers in. Thank you. Any questions?

Sen. Guidera: Thank you Mr. Taylor. Murray Hoffman.

8297 Mr. Murray Hoffman: My name is Murray Hoffman. The Social Action Board of the Horace Bushnell Congregational Church, a member of the United Church of Christ in Hartford is opposed to any form of capital punishment. The justification for capital punishment has been offered that it deters crime, but the overwhelming evidence denies this. We believe capital punishment is a travesty on human dignity and that human life is too valuable to be used as a deterrent for others.

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Mr. Murray Hoffman continued: We also believe that the present system for criminal justice is too inept to always precisely determine the guilty offender; therefore, capital punishment leaves open the possibility of taking the life of an innocent person. We of the Social Action Board of the Horace Bushnell Church say "no" on all accounts to capital punishment.

Sen. Guidera: Thank you Mr. Hoffman. I have Hard, C.P. Mr. Hard? The next one is Michael and the writing is as bad as mine. Judiwitz.

L. Michael Jędrzejczyk: My name is Michael Jędrzejczyk. An unprouncable Polish name. Just as one individual member of the anonomous public I would like to speak in regard to Bill Number 8297 and any bill that would establish the deathpenalty.

As Americans, we the people of Connecticut hold some general assumptions about ourselves. We assume that we are a basically moral and just people. But issues like capital punishment put these assumptions on the line. In good conscience could we consider ourselves truly moral if we revert back to the practice of killing as punishment? We may want to try to avoid this question. But it transcends and underlies all others. If we should establish the death penalty, we would deny the unity and sacred value of all human life. In addition there is a fundamental moral contradiction involved here. Which I think some others have just touched upon briefly. It is on the one hand, we would rightfully condemn a man or woman's act of murder, but on the other hand we would self rightwously put him or her to death. In other words, we would murder the murderer. Or even someone guilty of a lesser crime.

No one can deny that those who we call criminals are people above all. They may be sick, they may have done something horribly wrong. But must we respond by doing something at least as horribly wrong. They are fellow human beings. And if we do not respect their humanity, we will lose our own.

One more question. Will the institution of the death penalty reflect on us as a just people? A prominent psychologist A.S. Neil points out a deterrent argument is simply a rationalization. The motive for punishment is revenge, not deterrence. And we must decided if the irrational response of revenge could possible be called justice. Or perhaps justice is something more rational and decent which rises above the inhumane criminal act. And not duplicates them. Perhaps justice is something which we helps rebuild people and not destroys them.

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L. Michael Jendrzeczyk continued: Besides can there be any truth to the talk about a so called deterrent which has no effect whatsoever on any of the causes of crime? Like poverty and inequality, psychological distress and illness. If we really did believe all the rhetoric about deterrence, we would take our revenge in public and we would broadcast the killing during prime time for children and adults. But no. The place of execution is in a dark corner, behind thick walls and thick doors, suggesting a sense of shame and not righteousness.

In a similar way, the facade I think of lip service given to rehabilitation cracks and falls away to reveal merely fear and vengeance. We can control such emotions. Or we can allow them to control us, and put people to death. But then could they be called rehabilitated? As individual citizens and Legislators we are all responsible for deciding these questions about ourselves our morality and justice. And in doing will decide the life and death fate of others. Conceivable that they could someday decide our own.

For myself I can only say no to death and yes to life. And I hope this Committee and the Legislature will do the same. Thank you. I work for the Hartford Board of Education as a para professional.

Sen. Guidera: Your name may be unprouncable but your statement was loud and clear. Thank you Michael. Charlotte Kitowski.

Mrs. Charlotte Kitowski: They may have done away with the rack but is it really necessary to have bill relating to drugs, alcohol and capital punishment all on the same night. None of us would really like to be here. I'm very sorry for all of you because you have to be here. I assure you I'm not saying what anyone else has said before.

Sen. Gudiera: We are paid to be here maam.

Mrs. Charlotte Kitowski: I speak in opposition to legalized murder House Bill 8297. I am indebted to my sixteen year old son, Kevin, who is math student for the following if then chain reasoning. When he first heard that the Governor was planning to request the death penalty for drug pushers and for anyone who killed a policemen, he pointed out that there had been instances where policemen have been found out to be drug pushers. If the death penalty is provided for drug pushers and if the drug pusher happens to be a policeman and if the policeman is put to death then surely the individual most responsible for the death of that policeman the man who first proposed this punitive legislation and signed the bill, making it into law should be subject

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Mrs. Charlotte Kitowski continued: to capital punishment himself. If this seems far fetched, it surely is no worse than that Section of HB-8297 which reads, a person is guilty of murder when with intent to cause the death of another person, he causes the death of such person or of a third person or causes a suicide by force, duress or deception.

Duress is defined as affliction in the dictionary or forcible restraint of liberty. Deception we all know. Since we encounter it every day. With the kind of duress and deception that are coming out of governmental offices today and with the rapidly rising suicide rate, I would suggest that this provision might backfire.

In previous years, when I was younger and less realistic, I have spoken in opposition to capital punishment on moral and legal grounds. I will hand in my younger and less realistic statement. This year I've heard several Legislators begin a discussion of this bill by stating that "moral issues aside" I have assumed this means that moral issues are not considered worthy of consideration. So I appeal only to your enlightened self interest and offer the quotation from Shakespeare, King Henry VIII Act., Scene I, "Heat not a furnace for your foe so hot that it do singe yourself." Thank you.

Mr. Chairman, may I also ask where you are from and your position?

Mrs. Charlotte Kitowski: I'm a member of the human race, and I'm a Registered Nurse and I'm from West Hartford.

Sen. Guidera: I thought you were a highway contractor Mrs. Kitowski.

Mrs. Kitowski: I'm glad you know and I hope when 291 comes up you will remember that.

Sen. Guidera: Thank you Mrs. Kitowski. Rev. Edmund Nadolny.

Rev. Edmund Nadolny: Father Edmund Nadolny, I'm tired and you're tired so let me just read the last part of my talk. O.K.? I'm from the Office of Communications, Chairman of the Connecticut Committee of Preservation of all Human Life. Capital punishment is discriminatory and an ineffective deterrent to crime, unChristian. Revenge on the part of society and more often a reward to the accused sick person than a punishment. But above all I see captial punishment as an unjust punishment because of Christ who dwells in all of us. Both the judges and the

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Rev. Edmund Nadolny continued: judged. I see it as discriminatory because the poor, the attitude that yesterday I was over at the Hartford Hilton. I listen to four Legislators speak and I felt a real discrimination there. For the attitude that says let's end the war on poverty is saying let's push capital punishment. It is an ineffective deterrent to crime. It's obvious. It's a revenge on the part of society. And when society turns to try to revenge all it does is increase crime. And in one town there are 167 people who were executed and 164 of the 167 saw the crime themselves. Yet they ended up being executed. So it is more of a reward for the accused sick person than a punishment.

In conclusion to me capital punishment is unChristian. Human life is sacred. Each human life is unique never to be repeated. The gift of life belongs to God alone who shares it with man. Certainly all Christians have grave doubts about capital punishment since Jesus Christ himself was a victim of it.

Finally Jesus Christ has told us we must see him among those in prison. That just doesn't mean the harmless drunk, but also the pusher. This means the man who kills out of passion. The man who conspires to bomb, or burn, or rape or high jack. What do these men have in common and women have in common? They are criminals yes. But they are also sick. To visit the sick is to visit Christ who said love your enemies. You heard a lot of theology tonight but somebody left out the theology love your neighbor as yourself. Thank you Gentlemen. Thank you young ladies.

Sen. Guidera: Thank you Rev. Nadolny. Sister Marjorie White.

Sister Marjorie White: Gentlemen of the Committee. I come here to speak not only in the name of the Revitalization Corp in Hartford, but also for the people we serve. I come to speak in opposition of the Bill numbered 8297. It is a proven fact that capital punishment is not a deterrent to crime as have many said here tonight. It seems more of an excuse for our inability to come up with constructive penal reform. Violence which generated such acts as would be punishable under this bill continues to grow within the prison. In fact in most cases violence becomes more acute. Is the answer to this violence capital punishment? Are we not then acting in a violent way?

It is an accepted principle of social interaction that people react in a similar way to which people act towards them. Violence begets violence. In many cases the political and

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Sister Marjorie White continued: social structures of this State and Nation do violence to a great deal of people. By and large people are locked into their social positions and estranged from the political elites.

Those locked into the lower strata of society, in which the occurrence of crime is most frequent, eventually lash out at society for what they consider to be injustice. I do not say that people who act in a socially unacceptable manner should not be dealt with. I say it should be dealt with in a constructive way; not in a destructive way.

I therefore urge this Committee to give serious thought to this bill 8297 so that we as a society might act constructively morally, and in a responsible manner. Thank you.

Sen. Guidera: Thank you Sister. Rev. Ernest Bodenweber.

Rev. Ernest Bodenweber: I am Pastor of the First Congregational Church in West Haven. And there has been so much said tonight that I will try to focus my remarks on one thing that was previously said, namely that elementary justice requires that someone who has committed murder be deprived of his own life.

This speaker=did not say on what authority this definition of elementary justice rests. Certainly not on the authority of Judaism as a Rabbi has pointed out tonight. Certainly not on the authority of Christianity as I understand it. Because Jesus when he was murdered if you will, said forgive them because they don't know what they are doing. Certainly not on the authority of Hindoism either if Ghandi is a representative of it because when he was assassinated his last dying act was the sign of forgiveness for his assailant.

Forgiveness among other things means holding open the door of possibility that an individual can change. That he can be rehabilitated. That he can be the recipient of successful therapy. Or to put it in religious language that he can repent and seek forgiveness for himself. Forgiveness means holding open this door of possibility. If justice requires that society be protected which it certainly does, mercy requires that this door of possibility always be kept open and that it not be decisively shut by such an act as capital punishment.

This I see is the moral principle involved in essence. A principle which apparently has been increasingly recognized by way of the trend away from capital punishment. A trend which I interpret as an attempt to translate this principle into legal and Legislative terms. A trend which I hope will continue. And there fore I would like as an individual

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Rev. Ernest Bodenweber continued: to register my opposition to any Legislation that I would consider a step backward. Thank you.

Sen. Guidera: Thank you Reverend. Clorett Mack.

Clorett S. Mack: Good evening. I'm here representing Concerned. My name is Clorett Mack. I'm here representing Concerned Citizens for Prison Reform. And we are opposed to capital punishment. Excuse me. Capital punishment in all forms. Capital punishment under any of its conditions is to us a clear example of race and class prejudice. The reestablishing of any such penalties will inevitably become the sole destiny of many black, Puerto Rican, and poor white women and men now populating the prisons and jails throughout Connecticut. Indeed it can be proved that statistically that prisons contain the poor. Potential victims of capital punishment will undoubtedly be the poor and unfortunate classes of people who can neither afford the time nor price to get so called justice. Thank you.

Sen. Guidera: Thank you Clorett Mack. Joyce Palmer.

Joyce Palmer: My name is Joyce Palmer from Enfield, Connecticut. I represent the Enfield Caucus of Connecticut Democrats. We are not experts in the criminal justice field, but believe our views are representative of the average citizen's views regarding the proposed death penalty. You will hear from experts who can furnish strong statistical reasons why the death penalty is ineffective. You will hear from religious leaders why the death penalty is immoral. Hopefully you will give equal weight to our concerns. Our argument against the death penalty is based on two points. First it is our contention that the present Judicial system is inadequate in the area of determining appropriate and effective sentencing. A study commissioned by Chief Court Administrator John P. Cotter to investigate sentencing practices of Superior Court Judges and carried out by a law student serving as an interim in the State Judicial Department, appeared in part in today's edition of the Hartford Courant. Some excerpts from that study help point out the inadequacy of our present system.

1. The members of the State Judiciary are appointed to carry out the will of the people. However they are unable to properly that will. They are unsure of the results of their actions. They are poorly informed with respect to sentencing alternatives.

2. Judges agree that there were wide disparities in sentences for the same crime, but did not know what to do about it.

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Joyce Palmer continued:

3. Judges seldom discussed sentencing criteria even with each other.
4. The Sentence Review Division of the Court has failed to standardize sentencing practices.
5. Judges although experts in law, were uncertain whether the purpose of sentencing should be rehabilitation or retribution.
6. Judges don't know how effective the various sentencing alternatives are, or how they help or hurt an individual.
7. On the whole judges sentence drug addicts " in the dark".

These facts are sad enough when we are talking about prison terms and jail sentences. But to give a body of judges who admits to being unfair and uninformed, the added option of taking a human life, only adds to the despicable situation that will someday result in people dying only because the Courts don't know what else to do with them.

This then is our second point. If society is admitting that it does have problems and does not have answers, how can we as human beings arbitrarily sacrifice other human beings' lives through ignorance and apathy? We don't know how to rehabilitate properly, and seemingly do not care to know. This is our great failing. We cannot turn to a person convicted of a crime, however serious and say, we are sorry, but since we do not know what to do with you, you must die.

The Enfield Caucus of Connecticut Democrats opposes the reestablishment of capital punishment in our state. We support instead intensive and massive rehabilitation efforts adequately financed. We urge you not to reestablish the death penalty in Connecticut. Thank you.

Sen. Guidera: Thank you Joyce Palmer. Dr. David Hedberg.

Dr. David Hedberg: I'm Dr. David Hedberg, speaking tonight as a citizen and a physician. My background is a medical director and psychiatric director for the Department of Corrections in Connecticut. I came tonight to listen but was prompted by the gentleman from New York who talked about marijuana and legalization to add some comments. Basically I feel that most of the things that are said about marijuana nowadays simply are opinions and really not facts. And some of the statements that he made which sounded like facts really are just opinions

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Mr. Bernstein: I haven't got Connecticut's statistics, I can't answer that question.

Sen. Guidera: Thank you. Any other questions? Is there anybody else who would like to speak? Yes. This gentleman here. Will you identify yourself?

8297 Mr. John Rhodes: My name is John Rhodes. I am an attorney in Hartford. I'd like to be heard with respect to the bills talking about capital punishment for drug offenders or drug pushers. I presume we are talking about non addicted drug pushers for the most part.

Let me tell the group a story which I think might result in the death penalty for somebody who is rather close to main light of the provisions of the statute. This is a young man of age 22 who became involved with drugs himself, but was probably not at the time that he was involved with 2 separate sales to an undercover agent, an addicted person. I don't think by any stretch of the imagination would a psychiatrist or a doctor have found him to be an addicted person. His sister who is age 21 at the time of the incident became involved with one of the largest pushers out of a certain portion of our State who was in fact very well known to the police but who was smart enough to use young people in this particular instance this young man and his sister as shields for himself. He would put them out in the street and they actually made the sales. On a particular night on 2 separate occasions an informant of the police telephoned to the young man who visited the informant's house where the undercover police officer was present and went with the undercover police officer to the area where the large pusher could be found. Took money from the undercover police officer, went into the home of the pusher himself, gave over the money, received the drugs, and delivered them to the under cover police officer. Got no profit whatsoever. But was in fact convicted for the sale of drugs. The ultimate disposition of the case in Court, in Superior Court was that he pled to one case of sale and the other case was nolleed on the theory that he didn't have a previous record. But he in fact made 2 separate sales. But he was nothing but a ploy of, a pawn of a man who was in fact the most guilty person.

And under the statute I fear that this young man who was in fact at the time of these 2 incidents not physically or psychologically addicted, he'd given up drugs himself, and sold them for whatever purpose he sold them. He would have been convicted and potentially sentenced to death over and above the fact that I think the death penalty is unconstitutional, I think that any attempt by this Legislature to impose it on the State of Connecticut again will result in the Supreme Court

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Mr. John Rhodes continued: of either this State or the United States declaring it unconstitutional. I think that it will be incredible that a young man of this position should be put in the boat of having to face it seems to me even one or more years of prison. Let alone the extinction of his life. I think that any suggestion of that a bill should make to the effect that across the board that non addictive people be put to death is just an indication of an over reaction to the drug scene and an under achievement so far as the Legislators are concerned so far as knowledge of the drug world is concerned.

I've been involved as an attorney and as a member of the Community both in Hartford and New Haven and learning about and trying to do some Community education with respect to narcotics since 1966. And I can't conceive of a bill like this making any kind of sense in light of the actual facts about drug pushing. I think that is all I've got to say. Thank you.

Sen. Guidera: Thank you Mr. Rhodes. Any questions? Yes sir. Would you identify yourself for the Committee?

Mr. Theodore Brindenmore: I am Theodore Brindenmore from Manchester. I'd just briefly like to say that I'm opposed to capital punishment. I do not feel that society has the right to take a human life any more than I do. Society has a right to protect itself. Before we can put a man to death, a criminal. We must apprehend him. He will be behind bars. I feel society is reasonably protected when a criminal is already behind bars. The additional protection of to be gained by taking a life is it just isn't there. We will gain no protection. We are taking life which we do not have the right to take. This is my feeling. Thank you.

Sen. Guidera: Thank you very much. Is there anybody else who would like to testify at this time. If not we'll call this hearing-

Rep. Neiditz: Mr. Chairman we've been sitting here from 7:00 to 11:00 that's four hours. I only heard one witness that testified either in favor of the death penalty. I respectfully request Mr. Chairman that we request the presence of the State's Attorney's or such other people who may be in favor of this bill. So we may hear from them as to their reasons for this bill. There are feelings about its constitutionality. And be able to be questioned by members of the Committee. I think that with an issue of this type, with people who are proposing it in closets, not coming forth and being available to this Committee is doing a disservice to the public and doing a disservice to the members of this Committee who are clearly very much interested in this subject.

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Rep. David Neiditz continued: I hope that at the earliest opportunity that co-chairmen will ask them to come and be heard in public as to their reasons for pushing this bill.

Unidentified Committee Member: Either that or immediately box it.

Sen. Guidera: Thank you Rep. Neiditz. We will call this hearing to a close.

*Please include*

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**CONNECTICUT CITIZEN ACTION GROUP**

*Judiciary*

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*In Transcript*  
*2-15-73*

TEL (203)-527-9178

OFFICES: CCAG, CEAG — 57 FARMINGTON AVENUE

Testimony before the JUDICIARY COMMITTEE  
Of the General Assembly

Regarding proposed legislation on capital punishment  
February 15, 1973

Presented by Toby Moffett, CCAG Director.

*Not on  
tapes*

Senator Guidera, Representative Bingham, and members of the Committee. We believe that in most instances when testifying on proposed legislation, every important detail of the bill should be considered and discussed.

But in some cases, where the basic goal of the proposal is repugnant to what we believe to be the foundation and promise of this Nation and this State, the entire bill should be opposed, where what we feel to be a question of humanity is before us, it makes little sense to dwell upon questions of legal phraseology or economic feasibility.

The pending bills to reinstate the death penalty on a mandatory basis for certain crimes places us in just such a position.

You may recall that 59% of those legislators interviewed in our 1972 study of this body voiced their approval of reinstituting capital punishment. There is no doubt that it is politically feasible and even popular to take such a position. Yes, serious crimes continue to increase. Hard drug addiction becomes more of a problem every day. And yes, the fear that results from these very harsh realities of American life today is both understandable and an easy prey upon which ambitious politicians can capitalize.

But the truth is that these proposals represent failure and defeat. Somehow we seem to want to push aside the complexity and the magnitude of the crime problem of the violence problem of the drug problem and adopt options which do little but create an illusion of action. To adopt these proposals might give frightened citizens the impression — however false and temporary — that indeed something is being done to ease the problems.

It is not surprising that in spite of the resourcefulness, the talent, the imagination and the determination that this country possesses, we have failed to make a dent in these most urgent problems. Whoever said that token expenditures spread over less than a decade would make a noticeable difference? Nor is it surprising that the hard-line law-and-order approach which has become so popular in the past few years has failed to reduce these problems.

What is surprising and shocking and disgraceful is that we are about to compound those failures by doing nothing less than giving up!

So we oppose these proposals because we see them as a sign that our State is ready to give up, to throw in the towel on trying to solve those serious social problems through other than humanitarian means.

We also oppose them because we see no evidence that they will work. Adopting a mandatory death penalty or any death penalty will most likely do the following:

1. It might well free more guilty parties since you will be putting the courts and juries in a position of either setting the accused free or of sentencing him or her to death.
2. It will clearly discriminate against the poor. It is not the people of Wilton or Greenwich or Brookfield who will be either punished or protected by this bill.
3. It would most likely meet with the disapproval of the U.S. Supreme Court. Both Justice Douglas and Justice Burger have indicated that they have doubts about a Connecticut-type plan to by-pass the Furman decision.
4. It might lead to the killing of more, not less people, in a situation where a potential murderer knowing he faces the death penalty will feel there is little to lose by taking more people with him.

But most clearly and most tragically, these proposals represent to us an approach to very serious and complex problems which is superficial, short-sighted and not worthy of enactment by this body.

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STATEMENT OF JAMES F. AHERN TO  
THE JUDICIARY COMMITTEE OF  
THE CONNECTICUT GENERAL ASSEMBLY  
FEBRUARY 15, 1973

Mr. Chairman, distinguished members of the Judiciary Committee, I am grateful for this opportunity to discuss with you the critical issue of life and death in our criminal justice system.

Connecticut is one of more than thirty states which are presently considering or have already enacted mandatory capital punishment laws in the wake of the Supreme Court's recent ban on the death penalty. By a 5 to 4 decision last June, the Court ruled that selective application of the death penalty constituted cruel and unusual punishment under the Eighth Amendment to the Constitution. This had the effect of nullifying discretionary death penalty laws in 41 states and the District of Columbia, but left open the possibility of mandatory sentences for certain offenses.

There has unquestionably been a resurgence of sentiment in this country favoring capital punishment, and much of it reflects public indignation over the recent wave of hijackings, police killings, and other acts of terrorism. Despite official assurances to the contrary, most people do not believe that we have turned the corner on crime -- in fact, they have every reason to believe otherwise. Whatever the fluctuations of the

crime rate, the fact remains that many people are afraid to walk at night in their own neighborhoods, and a good number do not even feel safe in their own homes. You cannot argue against fear, and it is an even worse mistake to try to ignore it. The danger is that if we do not act soon against the rising tide of crime, we may eventually be tempted to act out of fear. And this can have only the most dire consequences for the future of American democracy.

Make no mistake: we are faced with a very serious problem. The question in this case is whether capital punishment offers a realistic solution. It is one thing to exact retribution for cold-blooded crimes against society, and quite another to impose the death penalty as a deterrent to crime. Deterrence presupposes that capital crimes are plotted by rational minds, which in most cases they are not. The majority of murders are not premeditated, and those that are are usually committed by persons who do not believe that they will be caught.

As a former police officer still active in law enforcement, I can tell you that the surest deterrent is when a potential lawbreaker understands that if he commits a crime, he will be caught, tried, and convicted. Unfortunately, this is hardly an accurate picture of the criminal justice system in Connecticut. According to a recent copyrighted survey in the Hartford Courant, the chances are 5 to 1 that a criminal in this state will never be arrested for the crime he commits. If arrested, the odds are less than 50-50 that he will be convicted; and once convicted, the odds against going to jail are 5 to 1.

It has become fashionable in recent years to blame rising crime on permissive social attitudes, but the real villain is neglect. Evidence mounts daily that organized crime figures are moving into Connecticut in substantial numbers, yet as recently as last year the Governor opposed the creation of a special commission to combat organized crime. It was argued that existing law enforcement agencies were perfectly capable of handling the problem. But at the same time, efforts were under way to cripple the effectiveness of the state police by eliminating the minimum requirement of a high school diploma.

It is useless, in my opinion, to talk about harsh punitive measures as a deterrent to crime when most criminals now enjoy virtual immunity from prosecution. The simple fact is that crimes are being committed faster than our criminal justice system can dispose of them. In the past ten years, the crime rate in this state has increased 300%; yet the number of persons serving jail terms remains almost unchanged. During the same period, the number of criminal cases before our courts has doubled, but fewer than 3% in 1971 actually came up for trial. The remainder were disposed of through plea-bargaining, acquittal, or outright dismissal of charges.

We are reluctant to face up to the truth about crime in America, but it is important to understand that it will not lend itself to easy solutions. I do not believe that it really serves the best interests of law enforcement to engage

in a rear-guard action against the Supreme Court. The State of Connecticut has already wasted enough time in the highest courts of this state and nation with legislative attempts to overrule the law of the land. We expect our citizens to be law-abiding; the time has come for our elected leaders to work within the law for constructive solutions to the problems of crime and criminal justice.

# # #

**3.**

**Transcript of Public Hearing, March 1, 1973,  
conducted by the  
Judiciary and Governmental Functions Committee**

[This hearing was held at 7:30 p.m.  
in the Aldermanic Chambers, City Hall, 2<sup>nd</sup> floor,  
Grand Street, Waterbury, Connecticut]

**Connecticut. Joint Standing Committee Hearings.  
Judiciary and Governmental Functions,  
Part 2, 1973 Session,  
pp. 369-373, 376-377.**

*State of Connecticut*  
**Legislative Bulletin**

Thursday, March 1  
JUDICIARY

7:30 P.M. - Legislators

8:00 P.M. - Public - Locations Listed Below

BRIDGEPORT - Common Council Chambers  
City Hall  
Bridgeport, Connecticut

NEW HAVEN - Hall of Records  
200 Orange Street  
New Haven, Connecticut

NEW LONDON - City Council Chambers  
City Hall  
181 State Street  
New London, Connecticut

STAMFORD - Cloonan Junior High School  
West North Street  
Stamford, Connecticut

WATERBURY - Aldermanic Chambers  
City Hall  
2nd Floor  
Grand Street  
Waterbury, Connecticut

SUBJECTS TO BE HEARD

ADOPTION LAW  
COURT REORGANIZATION  
CRIMINAL JUSTICE  
DEATH PENALTY  
DRUGS AND ALCOHOL  
NO-FAULT DIVORCE  
PENALTY FOR DRUNKEN DRIVING  
SHIELD LAW

Friday, March 2  
APPROPRIATIONS

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nesses of our community and our country. We recognize that there are no easy solutions, no well accepted cures for these sicknesses which are social, personal and medical in causation. We have no ready answers to these problems, but we have the conviction that answers must be found if the health of the society and the work place is to be preserved.

Accordingly, we call upon the municipal, state and Federal Government to intensify their efforts to develop new knowledge of the causes and methods of treatment of drug addiction and alcoholism and to augment support for the pitifully limited treatment resources now available.

In conclusion, we urge everyone concerned with the value of people and not just material achievement to embrace with us as their priority the program of National Health Care Insurance and Security for all Americans. Thank you,

REP. HEALEY: Thank you very much. Are there any questions?  
Janis Elliot.

MS. ELLIOT-WOTTON: May I correct that for the record. It is  
Janis Elliot-Wotton.

REP. HEALEY: My apology.

MS. ELLIOT-WOTTON: That's all right, I'm not too sensitive.

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My name is Janis Elliot-Wotton, I live at 176 Columbia Blvd., in Waterbury. I want to speak tonight on the matter of capital punishment. My remarks reflect not only my stand but also that of the Caucus of Connecticut Democrats of which I am a member.

Any comment on the matter of capital punishment must now note that there is much more to the Supreme Court ruling in the case of Furman vs. Georgia than the conclusion that the death penalty is unconstitutional. A majority of that court has concluded that the death penalty is simply not an efficient judicial tool of social policy.

Studies done throughout the country have clearly shown no lesser rate of capital crimes in the states which maintained a death penalty. Capital crimes neither decrease in states which enact a death penalty nor increase in states which repeal it. If there is no significant relationship to crime prevention, what then can be the point of the death penalty?

There really is no way in which new legislation may be drawn up which conforms to the limits of the Supreme Court's rulings

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and still conform to basic morality. The Supreme Court seems to have said that the death penalty might be legal when discretion is eliminated in its application to certain crimes; but to do so, we would have to eliminate the power of a judge and jury to reach their decision on punishment based on the specific circumstances of the individual to be sentenced.

Traditionally, the sentencing process in American criminal justice has been separated from the determination of guilt or innocence. The reason for this rigorous separation is that the possibility of rehabilitation or future contribution to society varies from person to person. Any law which would seem to satisfy the standards of the Supreme Court, including Committee Bill 8297 which is now before the Judiciary Committee, would ignore such considerations of individual differences or potential. Such law then can only seem to be an effort to exact society's revenge. No system of justice can be based on revenge. It can only result in injustice. Can't we instead worry about making our system of criminal justice work from investigation to trial to correction, rather than pandering to this ineffective desire for revenge?

If there is any real hope it is that the Judiciary Committee is also considering Committee Bill 1651 which would treat capital crimes in terms of imprisonment with stringent restrictions on parole. Surely, we can recognize that Connecticut has survived these past years without resorting to the execution of any of its citizens. We have heard no compelling reason as to why we should now change this policy.

Somehow in the hysteria which has pushed aside a reasoned consideration of the very real problem of crime in America, the death penalty has become a symbolic cure-all; but I would suggest that moral consideration aside capital punishment is questionable as even a minimally effective aspect of criminal justice - morally, it is the most flagrant example of the crime of punishment. The Constitution State must abide by that Constitution for which it was named and defeat this attempt to restore vengeance as a tool of criminal justice.

REP. HEALEY: May I just reroute while you're on your feet. There was a rather cogent statement I thought made at a hearing in Hartford on this, that one of the big problems would be the Supreme Court of the United States is that the Constitution prohibits cruel and unusual punishment and, therefore, the only way that capital punishment can be constitutional would be to make it usual rather than unusual.

MS. ELLIOT-WOTTON: There was that commentary, I guess.

REP. HEALEY: Thank you. Mr. Peter Elliot-Wotton.

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MR. ELLIOT-WOTTON: Thank you Representative Healey. Gentlemen of the Judiciary Committee. My name is Peter Elliot-Wotton, I live at 176 Columbia Blvd., Waterbury, and I come before you as a private citizen.

In the interest of a free press, which I believe to be absolutely essential to the maintenance of a free society, I would like to comment on two shield laws which are presently before the Judiciary Committee.

The Bill filed by the Republican Majority, Committee Bill No. 8107, would shield the press from revealing their sources except in cases of a capital crime or in cases of libel or slander. The latter exception is of importance in that it would give the accused the right to know who is his accuser. My question on this Bill is primarily that the language leaves too much room for abuse. Under this Bill, if passed, the press could be forced to reveal sources solely on the probability that the information would be important and on the basis that the prosecution has an interest in the information.

The other Bill before this Committee, Committee Bill 1647, has the same objective as the Bill I have just described. It is, however, much more clearly worded and leaves little room for abuse. The exceptions to the shield would be granted only on the order of the Superior Court and that order would be subject to appeal to the Supreme Court. It further specifies that only information that will lead to criminal prosecution of a specific felony, or that will prevent a threat to human life, can lead to such an order; in addition, it requires that such information is not available from any other prospective witness.

It is my opinion that the second Bill, C.B. 1647, is by far the better of the two bills in that it truly protects the rights and interests of a free press. The erosion of these rights can only lead to further erosion of the freedoms on which this society was founded. Thank you.

REP. HEALEY: Are there any questions? Thank you very much, Sir. Mary Gilbert.

MS. GILBERT: Mr. Chairman, Members of the Committee. My name is Mary Gilbert; I live at 285 Hillside Ave. in Waterbury, and I come before you as a private citizen, to speak on Bill 8297 which would reinstate the death penalty in certain instances. I am totally opposed to the reinstatement of the death penalty in any instances. Capital punishment is a cruel and unusual form of punishment which is in direct violation of the 8th and 14th Amendments of the United States Constitution. Capital punishment denies due process of law,

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the worst and most dangerous criminals are rarely executed, it violates the constitutional guarantees of the equal protection of the law because it is imposed almost exclusively against racial minorities, the poor and the uneducated - persons who are victims of overt discrimination in the sentencing process and who are also unable to afford expert and dedicated legal counsel. Reliance on the death penalty obscures the true causes of crime in our society and detracts attention from the resources of our society which are able to control it. Thank you very much.

REP. HEALEY: Are there any questions? Thank you very much, Mam. Anne Walters.

MS. WALTERS: Representative Healey and members of the Committee, the best thing I can do is say that I agree with the last speaker and the other person who spoke against capital punishment in any form. I am totally opposed to it and I think all the arguments have been presented in the previous sessions, notes would speak for themselves.

REP. HEALEY: Thank you very much. William J. Pape.

MR. PAPE: My name is William J. Pape from Middlebury, Connecticut. I'm a Director of Connecticut Citizens for Judicial Modernization, but I'm here as a private citizen to speak in favor of Bill 8269 to create a commission to study and draft legislation for the reorganization and unification of the of the courts. I would like to say that I was very pleased and somewhat surprised that an earlier proposal from the Legislature to merge the courts, I didn't quite expect it to come as soon as it did. I think the Bill is a very worthwhile Bill, but I feel to limit the representation to lawyers and judges is self-defeating. There are many citizens, and very concerned and responsible citizens, who have paid a great interest in the problems of the courts in the last several years, and I think they should be representative. I specifically think that people with expertise in management and certainly people that represent minorities should be represented on the commission. I think their input would be very worthwhile to the Legislation in a commission like that. Thank you very much.

REP. HEALEY: Mr. Pape (inaudible) your group didn't make a very effective presentation . . . in the matters of the last several days, and I am quite confident that any bill that does come out will provide for lay representation on the commission.

MR. PAPE: Thank you very much.

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REP. HEALEY: Eugene McAlister.

MR. MC ALISTER: My name is Eugene McAlister, Pastor of the United Church in Beacon Fall, and I've come to speak on the death penalty bill.

Our denomination, the United Church of Christ, of course, is opposed to it and I'm not going into the many arguments used by others, but simply to express the conscientious belief of my own that the death penalty violates my christian convictions as do not only the Ten Commandments but the teachings of Jesus, a commandment of Our Lord, and that many other christian people that I talked to believe this also, and for that reason I think that since many . . . tend to go against the conscientious beliefs of many people in Connecticut, then it ought not to be enacted.

I believe that because it violates what we can sum up as the sacredness of human life in the Bible. By the way, this is the first hearing I've ever been to and I've come only because of the seriousness of this question. I can assure you in our Orders we do not eat children. I was a Chaplain in World War II and I am not opposed to death in itself. It huh, there we were fighting for principles and in self-defense, but here I feel that I and everyone of us commits murder in a certain sense when the State imposes deliberately the death of an individual. That's my position. Thank you for letting me come.

REP. HEALEY: Sir, if I may - please believe me - I'm not trying to put you on the spot. What would your feelings be in the case of person who in very cold blood takes a monetary contract to "wipe out" another person? Would you still feel the same way that death should not be imposed?

MR. MC ALISTER: Yes, absolute conscientious belief on my part

REP. HEALEY: Deliberate. Deliberate.. Well, assuming the point I was trying to make, this is an absolute position.

MR. MC ALISTER: Yes, sir.

REP. HEALEY: Thank you, Sir, very much. Donald Liebeskind.

MR. LIEBESKIND: My name is Donald Liebeskind and I represent the Connecticut Retail Merchants Association. I am a Director of that Association and the Musler Liebeskind Retail Store in Waterbury, and I would like to speak on Bill No. 797, an Act concerning the crime of shoplifting.

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and records of the mercantile establishment relative to the ownership of the merchandise. (New York General Business Law, Section 218.) Thank you.

REP. HEALEY: Any questions? Thank you very much Mr. Liebeskind. Joseph P. Donahue.

MR. DONAHUE: Guilty, Your Honor.

REP. HEALEY: Have you been advised of your rights?

MR. DONAHUE: I have. Mr. Chairman, Members of the Committee, I want to endorse what Mr. Liebeskind has said, and also to thank the Committee for permitting the Connecticut Retail Merchants Association, whom I represent, to make presentations not only here but also in New London and in Bridgeport, Stamford and New Haven.

REP. HEALEY: What airplane were you using?

MR. DONAHUE: I'll see you after the meeting.

REP. HEALEY: Benedict F. Pozniak. Mr. Pozniak, before you start, if I may interrupt for a moment. Just in the event that any people who have arrived since since the earlier announcing of rules, if you wish to speak it would be a very real convenience to the Committee if you sign up with the gentleman who is standing back here who has a list. I don't mean by that that you will not be permitted to speak, you will speak, but you just have to wait until the end of the session. So if you do intend to address us, it will be in your benefit if you would sign up on that list which the gentleman is holding in his hand. Thank you very much for indulging me with that statement.

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MR. POZNIAK: Mr. Chairman, Members of Committee, and Ladies and Gentlemen. My name is Benedict Pozniak. I live at 1949 Bluefield Road in Torrington. I do not have anything as many of my learned predecessors have, a written statement. I shall talk to you from notes and as extemporaneous as I can. I did not come prepared to speak on capital punishment, but I couldn't help but listen to this and I disagree, which is my prerogative, with the previous statements made. Way back to the Law of God, the Law of Moses said "Thou Shalt not Kill" and any type of religious ruling way back, law always said "an eye for an eye" and a "tooth for a tooth." Now I happen to be a Christian, a Roman Catholic, but this has nothing to do with my belief in capital punishment. If a man kills someone, kills one of your family, my family, I believe in capital punishment "an eye for an eye" and "a tooth for a tooth."

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If we do away with such punishment, where should we turn for such crime? Even this punishment doesn't seem to be a deterrent to violence, virtually killing. You remove the death penalty and man you just make it a cinch for people to do this all the more. You won't find too many fine citizens godfearing people doing this. The type of person that would kill most of the time is someone who will possibly fear the death penalty more than some other mild form of punishment. I end that with that.

I came here and it took a little nerve on my part to come here, but I was prompted by personal experience in the courts. My belief - I have children who have gone to school, have taught them that all people in this country of ours are born equal and have equal rights, and under the Constitution we have protection of these laws and we are entitled to peer on our own behalf for justice under these laws. I'm afraid our system of justice, I'm talking about our State of Connecticut, has veered off considerably. Now I presume that many members in this Committee are members of the Bar (lawyers), I am an ordinary hard-working citizen. I had my experience, I had a legitimate claim presented in the Small Claims Court in the amount of approximately, not approximately, exactly \$206.50, including the initiation fee, and I learned something from this. I always was under the impression that Small Claim Court was a small court where the average citizen can go and present a claim to be heard by a judge in a very informal manner, and have it settled right then and there, and in past years, that's the way I've always seen it done. I became educated the hard way.

I presented this to Small Claim and waited to be notified, and I received the papers which you people are familiar with. Amongst them was an affidavit - this man went to an attorney; and the attorney fills out a form saying that they have a valid defense to the claim. These set forth the ground of defense which said a good defense exists, and the judge automatically transfers it to the regular docket of the circuit court. This was news to me, but the average citizen doesn't know the law. The court ran up to me and handed me a form with which you gentlemen probably are familiar, CCP 179 - Notice to Persons Appearing Pro Se - may I read it?

Dear Sir: The filing of an appearance, either pro se or by an attorney is only the first step in the defense of an action brought against you. There are other things you must do because there are various stages in the defense of a lawsuit. (I was not the defendant I was the plaintiff.) When this was handed to me the judge said 'May as well make you aware of the fact, Mr. Pozniak, that people have taken this case on the raw into the regular session, but we do not advise it because there are so many pleadings that have to be done, and if you don't do

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**Transcript of Public Hearing, March 1, 1973  
conducted by the  
Judiciary and Governmental Functions Committee**

[This hearing was held at 7:30 p.m.  
in the Hall of Records, 200 Orange Street,  
New Haven, Connecticut]

**Connecticut. Joint Standing Committee Hearings.  
Judiciary and Governmental Functions,  
Part 2, 1973 Session,  
pp. 407-410, 417-423, 426-428.**

State of Connecticut  
Legislative Bulletin

Thursday, March 1  
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7:30 P.M. - Legislators

8:00 P.M. - Public - Locations Listed Below

BRIDGEPORT - Common Council Chambers  
City Hall  
Bridgeport, Connecticut

NEW HAVEN - Hall of Records  
200 Orange Street  
New Haven, Connecticut

NEW LONDON - City Council Chambers  
City Hall  
181 State Street  
New London, Connecticut

STAMFORD - Cloonan Junior High School  
West North Street  
Stamford, Connecticut

WATERBURY - Aldermanic Chambers  
City Hall  
2nd Floor  
Grand Street  
Waterbury, Connecticut

SUBJECTS TO BE HEARD

ADOPTION LAW  
COURT REORGANIZATION  
CRIMINAL JUSTICE  
DEATH PENALTY  
DRUGS AND ALCOHOL  
NO-FAULT DIVORCE  
PENALTY FOR DRUNKEN DRIVING  
SHIELD LAW

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APPROPRIATIONS

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MR. GREENFIELD con't: The fact that it seeks to provide a more civilized and less hypocritical procedure to terminate those marriages that are broken beyond repair. It recognizes the dignity of the individual and right to privacy as well as the need for greater protection for the interests of the children and it is the hope of our Board of Governors of the Connecticut Bar Association and the Family Law Section of the Connecticut Bar Association that the legislature would abide by this bill. Thank you.

REP. WEBBER: Thank you very much. Any questions? I was looking at the bill Attorney Greenfield, does it determine the type of conciliator or designate a particular one.

MR. GREENFIELD: No. It provides that three classes, if I remember. Either a clergymen, or a physician or a recognized licensed counselor.

REP. WEBBER: Agreeable to both parties?

MR. GREENFIELD: Agreeable to both parties.

REP. WEBBER: Thank you sir.

SEN. BRADSHAW: Mr. Greenfield would you when you get back to your office tomorrow sum up what you said in writing?

MR. KOFFMAN: My name is Michael M. Koffman of Koffman Advisory Service, 603 Central Avenue, New Haven. I have a number of bills to talk on. I didn't have time to study them until tonight and its going to be very quick. So here I go on Bill #8087, AN ACT CONCERNING PENALTY FOR THE SALE OF DRUGS BY A NON DRUG DEPENDANT PERSON.

All I have to say on that is that young people are telling me that liquor and drugs have the same effect and should have the same penalties and therefore, what applies to the sale of narcotics with distribution and everything else should be included with the sale liquor ought to be included with that.

On bill #8269, AN ACT CONCERNING A COMMISSION TO DRAFT LEGISLATION FOR THE REORGANIZATION AND UNIFICATION OF THE COURTS. All I can see is that is a shatter ---- to create another commission to spend your money and mine the taxpayers and hire professional, whatever that is today, people who spend our money while they get their fancy salary. I question that. I'd like to know isn't it possible for the judges and the attorneys to do this themselves and not waste the taxpayers money by creating a commission to do so?

On Bill #8297, AN ACT CONCERNING THE DEATH PENALTY. I say that this should be ---- as it could be. I noticed that the FBI came out with a report that the years 1960 to 1970 when the courts became lacks and the laws didn't cover, at least in my eyes, the criminal to commit capital crimes such as murder, rape, violence, robberies. The crime rate went way up and I

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MR. KOFFMAN con't: think, to me anyway, the evidence is there, the facts are there because the law permits the criminal to do such things. I think that we ought to go back to the years prior to 1960 the 40's and 50's and make the laws with this country and enforce those laws that are on the books and haven't been enforced, so that the murderer gets the electric chair or gets the death penalty and the criminal for kidnapping and everything else. Those who feel that they want to commit crimes will know that they will be strictly ---- and that's the only way we're going to stop them and the wave of terrorism that is sweeping the country in murders, kidnappings and hi-jacking of airplanes and everything else.

On Bill #8235.

REP. STOLBERG: Excuse me Mr. Koffman, may I ask before you go on that whatever statistics you have on that in terms of increase in crime rate, capital crime rate as related to population growth, if you have those would you submit them to the committee?

MR. KOFFMAN: I have them in my office and I worked until 7 o'clock this evening. I was up in New Britain.

REP. STOLBERG: We won't be voting on the bill for a while.

MR. KOFFMAN: Do you want all copies? I'll send them to you.

REP. STOLBERG: One copy and I'll share it with the committee.

MR. KOFFMAN: I'll send it along. Bill #8235, AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE. I'm divorced and I speak from experience not only of myself but of many of my friends who have worked for me, or are in the process of being divorced. You know experience is the best teacher. Probably the answer to the problems of life are never found in a book. But I had a remark here of some thoughts. As long as the wife is able to work, she should not be granted alimony. There should be no alimony granted when the husband cannot make ends meet for himself and perhaps can make a new life and get remarried again. He can't afford two households and there's no sense, as the saying goes, paying for a dead horse, and no real charges should be placed against either party after the breakdown. I have this friend of mine, many friends of mine but this one in particular, who had a horrible marriage and they broke up and after awhile after she felt that she was entitled to have male company and she did. I told her it was against the law and you were going to get into trouble and she was later in court and she was branded unfit to bring up her children, which was unfair because she was being ----. I think that all the people would agree with me on that. Also branded I don't often use the word but ridiculous shame, which is ridiculous.....

REP. WEBBER: Excuse me Mr. Koffman would you please direct your remarks to the bill, the particular bill?

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MR. KOFFMAN con't: To continue, I think a clause should be put into this bill, that one party cannot arbitrarily remove furniture without the consent of the other and I remember that this girl told me that while she was out earning a living for two children, her ex-husband went into her, her present husband, they weren't divorced, went into her house and removed every bit of furniture she had just bought to furnish it. He had that right. I don't think any man or woman has the right to invade the privacy of someone who was married to them, even though they were separated and move the living room, the kitchen, the bed room, the dining room, every piece of furniture she had in the house. When she came home that night the children were sitting on the floor. They had no place to sit. I think that, that should be included in the law. ----- say I'm stupid.

On Bill #8267, I say this from experience, but I must say my apologies to Mr. Gill who --- nice public defender and obtain for the aid of the family who I ---- ----, but until he entered the picture, they were ----, they were ----. The public defender, who is supposed to defend and I say suppose to, they should not and I should not get in conference with the public defender and from experience I must say that the public defender doesn't ---- office not --- legal aid to the poor. The public defender in my experience are afraid of the judge and the police department and cannot adequately defend those that they are suppose to represent and therefore, I suggest that the public defender ---- be completely eliminated and legal aid society take over.

It's contradictory on the ---- of reporting of child abuse cases. We can report the abuse of an animal but we feel for cows, or whatever animal he has. If a neighbor calls about beating a cat or a dog and have him arrested. But you can't do it if a parent is beating a child and ---- ----- (overlapping of conversation of committee members).

AN ACT CONCERNING THE ESTABLISHMENT OF DIVISION OF CRIMINAL JUSTICE IN THE OFFICE OF THE ATTORNEY GENERAL, WHICH is Committee Bill #1690. I didn't read much about it except what I saw in the papers and I haven't had time to read that, but I say that I object to it. I think its just another poor ---- to create the ---- jobs and I think that we ought to save taxes and prevent another bureau from being created. Because you and I pay for this bureau and they call it taxes. Its about time the politicians realize it. I don't like hypocritics who say, we got to cut down the taxes and save the taxpayer money and vote themselves raises and more bureaus so that they can take money from the taxes and up to now that's all I have. I don't know if I'll have time to talk later.

REP. WEBBER: Thank you very much, Mr. Koffman. Representative Morris.

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REP. MORRIS: I'm State Representative Bruce Morris from the 84th district in New Haven. I've come here to testify mainly on an act concerning the death penalty. I'm ---- as a State Legislature. I would probably keep my remarks to this particular bill although I have other concerns in other bills that you have but I don't want to take up all of your time.

On the bill of the imposition of the death penalty in the State of Connecticut. Primarily because the state of one life which worth it. If I were a criminal and I committed murder in the state or any other state, I would think that it would be worse to spend some thirty-five or forty years of my life in prison and then it would be to receive the death penalty. Many of us know that the death penalty has not deterrent in crime throughout the United States, yet we find those who advocate the death penalty and why? I submit to you Mr. Chairman, that they are looking for revenge. Vengeance on individuals whether they be ---- or a ---- or whathave you. Many of us know that the pore of our problems of sentence because of the overwarked public defenders, the overworked legal assistance of associations of (member coughed in to microphone-overlapping speaker), throughout the counrtry.

But, yet we want to continually impose the death penalty because it makes a few feel could at killing someone, I call it legaliz-ed murder. Rather upset when an individual commits a crime and yet By seeing a crime by this individual in the state penatenary ---- ----. I was there when they brought the bodies out. There were about six of them and the ---- rushed through my body and I said kill them. I felt the same way but at that ---- instant ----. We ar suppose to be an intellectual society. We are suppose to know that we take better care of our animals, cats and dogs than we do our human beings. Recognize that another ---- animal, we're suppose to have the intelligence, the reason if you will, and yet we permit legislation that will take a human life. I don't think that is right. If there are, if we do believe in what we talk about in our churches and synagogues. For some reason we don't believe that. We seem to believe that if we go ---- on society that we will never be a death penalty, legalized murder, but there will always be someone else. Yet, you out there make ---- ---- there are too many of us there. Or you may be found guilty of a murder, God help you if you are a murderer. Many in our history ---- ---- you know who they are. If you can take one life, why should you take it illegally. of some animal, why should you? I am eposed to this capital penalty and in --- could suggest that we could go to this ---- and barbaric practises.

Briefly, you must take it, apart, I submit that you must do that if you --- anything at all to the Family Relations Court ----. Establishing a division of criminal justice. I object to that particular bill(not clear on tape.)

The dissolution of marriage. I think that it should be easier for those individuals. Particularly the poor. People suffer from unwanted marriages, not only the rich but really the poor.

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MR. CARNEY con't: In addition to the myths on marijuana, there are many "half-truths" used to discourage users. For example, one government pamphlet declares that in countries where alcohol is prohibited, there are "shid-rows" of marijuana users. What the pamphlet failed to say is that research supports the tenet that it is an individual's emotional disturbance or personality disorder that leads to alcoholism and the abuse of other drugs. Not the drug itself.

For those that believe the marijuana laws are not in effect in Connecticut, I refer you to the case of a young man (#25184), now serving 6 to 7 years in Somers Prison. His crime, possession of 1 1/3 ounces of marijuana. He has currently served 19 months. Senate Bill 1014 would have prevented this.

250,000 more people will become criminals this year for the possession of a drug that at best is a mild intoxicant and has less proven deliterious effects than both alcohol and tobacco.

Those that are lucky enough to not receive a jail term, or fine will only have their lives ruined through loss of jobs, parental problems and possible marriage dissolution due to newspaper publicity.

Gentlemen, Saturday, February 24, 1973, at a Federal Law Enforcement, Seminar, Special Agent O'Brien stated that he was in agreement with our effort and that the BNDD has made public its support for decriminalization. If the Federal Bureau of Narcotics and Dangerous Drugs wants a change in the law, if every governmental study group has supported this policy, who is stopping the process? It's time to disregard old programs and concepts that aren't working. Its time to change the law. Thank you.

SEN. PAGE: Any questions? Do you want to leave that statement with us? Best to keep this hearing as short as possible and if there are any lengthy statements, perhaps they could be given to the committee and we could pass them on and they could be just summarized. Please keep that in mind. We're not trying to shut anyone off or stop anyone from testifying. Mr. David Neuroth.

MR. NEUROTH: My name is David Neuroth of 60 West Rock Avenue. I represent the Citizens For Better Corrections Institutions, in New Haven, Connecticut. I'd like to give the assemblance copies of our statement, very brief, Mr. Stolberg, Mr. Webber. I see now our committee has directed before and the various other committees. I speak against the Committee Bill #8297 and speaking for the Citizen's For Better Correctional Insitutions in New Haven. I also express strong objections to Committee Bill 8297, particularly Section 3B, which reinstates that the death penalty for certain crimes. I am not here to repeat the statistics on the ineffectiveness of capital punishment in preventing criminal homicide-- they are familiar to all of us. Without denying their validity, I think there is a much more crucial issue at stake, the unacceptable arbitrariness with which this bill treats human life.

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MR. NEUROTH con't: By specifying eight sets of circumstances under which a death penalty must be imposed, the bill hopes to eliminate the arbitrariness which was basic to the Supreme Court's ruling against capital punishment. The C.B.C.I. believes that this arbitrariness can only be reduced and never eliminated, since it derives from a concept of discretion that is central to our criminal process. These discretionary powers are available to police at the time of arrest, to prosecutors during court proceedings, and to juries in deliberation. This bill's attempt at limiting arbitrariness by defining capital crime more specifically must be seen within the larger context of this discretionary system.

It is the inevitability of such arbitrariness within our system of justice that makes capital punishment unacceptable. To be in any way arbitrary with a human life is totally inconsistent with the most fundamental beliefs of this nation. Since respect for the rights of the individual is at the foundation of our democratic beliefs, on one, not even the state, can be given the right to violate the sanctity of a human life. The idea of a state using the death penalty to avenge a wrong done to it is unacceptable in a society that purports to be humane. No arguments of deterrence could ever justify or even rationalize such arbitrary action with a human life.

We think the retention of such respect for the sanctity of an individual's life is particularly imperative at this time. The membership of the C.B.C.I. urges our legislature to embody our humane ideals of our founding fathers and reject House Bill 8297. Thank you very much for your time.

REF. WEBBER: Thank you. Please leave a copy with the girl.

MR. POLLACK: Mr. Chairman, my name is Lousi Pollack, I live at 24 Adverse Street, here in New Haven. I'm lawyer and Law State Chairman of the Connecticut Bar. I'm here Mr. Chairman, to express my opposition to Committee Bill 8297, AN ACT CONCERNING THE DEATH PENALTY.

For reasons that were state by other witnesses that preceeded me, I think that it would be a tragic, progressive biding for this state to reinstitute or attempt to reinstitute as the bill suggests and in my humble submission this bill is un-constitutuional, to attempt to reinstate the death penalty to bear prudence.

I will not, Mr. Chariman, attempt to lable what is really I think the center of the attitude with respect to the death penalty. The infringing immoralities, the fundimentally corrupting effect of building a system of permature prudence on the acting by the state of the death of its citizens.

How ---- the incompatible that is with the predictions of a free society, I think it clear to any of us who think in serious terms about what our traditions mean and in particular give

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MR. POLLACK con't: close consideration to the opinions of the Justice Marshall and Justice Brennan in particular of the Supreme Court in the case of *Ferman v Georgia*, which the Supreme Court determined that the death penalty is in compatible with our constitution. Without ---- wishes because I'd really like hearing Mr. Chairman to lawyers. May I submit for the record one of the most eloquent pieces of writing on capital punishment that I'm familiar with by my fellow citizen of New Haven and my colleague speaker that were here and I hope would speak to you later this evening, Special Sheriff Black, his lecture, Mr. Chairman, "The Crisis of Capital Punishment", reprinted from the Maryland ----, covers the ground far better than I can, and I hope that it will appear in the permanent records.

Now Mr. Chairman, I said that I believe this bill is unconstitutional. To explain why, I would have to revert very briefly to what I understand has been decided in the United State Supreme Court a year ago. Two or perhaps three justices, Brennan, Marshall, and obviously Justice Douglas, concluded that the death penalty is incompatible with the..at least with the amendment with the cruel and unusual punishment provision of the Constitution, however, utilized. The two other justices that ---- Floyd and Scroul, who are the fourth and fifth members of the justice majority. Without essentially weakening that ----, join the majority made up of the majority of making the death penalty unconstitutional on the matter ---- essentially, whether it is imposed frequently, arbitrarily on a small number of people without any way of distinguishing between those executed and those not and the bad character of the American crunubak hyrus orydebece ir at tgat tune tge ---- law.

Now it is evident on the face of this that bill #8297 was drawn with view to meeting the constitutional objections of the Justices, White and ----. No legislation could meet the constitutional objections of Brennan, Marshall and Justice Douglas. But, it was with the concept of a mandatory death sentence, certain catebory of behavior that this bill was drawn. As meeting the objections of Justice White, and Stewart to exact sentences imposed on some people who do certain acts and not others.

Mr. Chairman, the bill is an illusion. I don't say that it is the fault of the drafter. They did the best they could. If drafting is the appropriate word to use in this context and draft is not constituionally good enough.

As the witness before me suggested our entire jurisprudence is based on the concept that disurekfon is preformed at every level. So to call the death sentence quote, "mandatory" is to mislead what is infact, happens. When the prosecutor decides what it is to charge a defendant for he is making a determination initially, whether a certain behavior falls within the category of what we still call a "mandatory" type of offense or some lessor offense. At that very point a distinction is made between conduct of one person and conduct of another which would defy rational determination, rational distinction, rational

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MR. POLLACK con't: differentiation, except as a prosecutor is obliged to say, I think, that we can try to get such against such a person and this against somebody else. I don't want to get you against the prosecutores role, that's exactly what the prosecutor is suppose to do to make those kind of distinctions, but make those distinctions he does less applicable.

The grand jury then makes its determination as to what to indict for and the grand jury in turn makes distinctions which none of us could grasp or retract to explain why one person is charged with what this state would call, "capital offense" and why others charged on the same trial behavior, what this bill will call "Class A" problem. After indictment the case then goes to the judge or judges and jury, is making a find of guilt and has within its authority to decide if the person before them, is guilty of the crime charges or of some lessor proven offense and at that stage, again the discrimination is in. Again, please understand when I say discrimination I don't think it can be anything briefer. Its distracted simply in the category of irrational, undescrivable distinction between the same ----. But all of us really know that the criminal --- yeilds to. We could not establish the system if we could in which in which every person doing every particular piece of c onduct were always treated the same way. As a very fact that anyone should have to give any sentencing correction at all, indicates that thats the reason.

So the judge or jury by finding a defendant guilty of a lessor of the proven offense the quote, "mandatory architecture" of this bill and finally of course, I suppose, I may be wrong, I suppose that the purpose of this bill to at least remove the possibility of course for one found guilty of mandatory capital offense and yet I find no mention of that in this bill. Perhaps I miss-read it or don't read it enough, but if the bargaining power of this were many. Then again we have a variable re-opportunity for one person convicted of a capital offense to be indeed executed and another not executed under the graces of distinction and discrimination. None of us would dare call other than arbitrary the very kinds of differentiation condemned by Justices White and Schoul. And if it is the purpose of this bill or if its about to be amended to execute such a purpose to remove the proper decorum from Connecticut's permature jurisprudence for those convicted of what this bill describes as "capital felony". If that be the purpose of this legislation or the legislation as it might be amended, that of course, introduces certain original constitutional problems peculiar to Connecticut law as to whether the ----, or whether the legislature has the authority to withdraw from the Governor the Board of Pardons, a bargaining power which at least in many jurisdictions as inherent in the executive as being alienable but that is a constitutional problem that with different rules and that is not the constitutional problem with different rules and that is not the constitutional problem that I'm raising. My purpose has been to suggest that this bill be more conjecture to mandatory, so called mandatory, offenses be it transparently

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MR. POLLACK con't: a failure. It cannot be done. Under this bill as under the system of jurisprudence which prevailed in Connecticut until the decision of *Froman v Gerogia*, this criminal process ---- at every state. Differential presents of persons who have engaged in the --- what the statutes of our state has been saying of criminal behavior and it is that or the differentiation which when it is not vested in a distinction between one person being executed and another person being executed makes the death sentence fatally defective in this year of justices White and Stewart, the Supreme Court Justices in the death sentences cases.

Now Mr. Chairman, even if the legislation were not defective, in the respect that I suggested, I would urge upon you that the legislation would be defective for a reason which would initiate the death sentence no matter how you go along with it for a reason which has not yet been adjudged by the Supreme Court but as the occasion calls upon that court to consider the issue, I would urge that organizer of this committee now, to take the view that, unless or until it is demonstrated that the death sentence has a deterrent effect upon the behavior for which it is invoked, that is to say, that until a substantial over-whelming cases have been heard that fewer murders are committed in jurisdictions in which the death penalty is the penalty for murder or in the first degree, let us say, that the use of the sentence, "must be found to be wanted in due process" because it serves no useful social purpose.

Page one, which I will return to in a moment. Even it is true that the death sentence does not act as a deterrent, one of the earliest witnesses this evening argued that it is a deterrent. He promised to submit statistics to Representative Stolberg and I will be interested in what those statistics show, I do not think that he can find anglo-American jurisdiction on the basis of which he can make that scale. I think that it would be very difficult to demonstrate, for example that our state is singularly ---- in Rhode Island. Simply b-cause we have for many years, I beg your pardon, we are more safe than Rhode Island because we have for many years been protected by the death sentence. I think it would be very difficult to show that Illinois is safer than its neighboring state of Michigan.

We have one relevant case history from which we can draw some influences. England has not had the death sentence for almost a decade. In that time there has not been any rise, Mr. Chairman, in the proportionate number of the thousands of the population of crime for which, up until a decade ago, the death sentence was imposed. The ratio have continued at a virtually flat level. And that was at a time, Mr. Chairman, it was in England as it was in many other Western Countries, the general wave of violent crime was on the rise. Some were on the rise. But with respect to the particular category of the offenses before the death sentence was imposed in England and is no longer imposed, there is no rise. I suggest to you Mr. Chairman, that is the strongest evidence that the death sentence does not work as a deterrent. Lacking that as a deterrent, I suggest Mr.

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MR. POLLACK con't: Chairman, that it is a denial of due process of law to use because it serves no social purpose except as suggested, one, the purpose of vengeance.

I refer to you, Mr. Chairman, that that is not a permissible purpose, it is not within the hands of the people of Connecticut to say to the state that someone is convicted of a ---crime that, "You have behaved so badly that we are going to kill you because we endure the enjoy the idea of killing"and I suggest to you, Mr. Chairman, choosing my words carefully, that is exactly what we are saying when we are talking retribution. If you say to me I have behaved so badly, that I will punish you by cutting off your hand. If you say that to me you may be at least be saying, "You will think differnetly about behaving that way again and I will endure the suffering that you have incurred to lean that lesson. But if you turn to me, Mr. Chairman and say, "That you have behaved so badly that I'm going to execute you" and if you don't enjoy that process but you have not contributed in any way to bring me back to society as a better and surer person. I use these examples, Mr. Chairman, not too facetiously at all, but to illustrate as best I humbly can, that retribution is not a ---- for a society that has been given a ----. Retribution may be a function of others perhaps but those who believe in a divinity and I should think Mr. Chairman, I am not one of those, but I will have to take account of such a point of view for those who believe in a divinity, perhaps in the ---- of these above the social system. It is not as it may a permissible way to persecute in an organized society ---. And if I'm wrong, if it could be conceived to be within the confines of purpose and --- for society to engage in the joy of punishment to the point of killing at least we have the option of not enjoying that kind of persecution.

I urge, then Mr. Chairman, that Connecticut, is not indulging willingly, lacking the egos of barbarism. Mr. Chairman, the Supreme Court of the United States by decision last year, took this country out of its small category of countries which continued to behave in barberistic fashion of killing, offical killing and brought us into the love light of a free society which would abolish capital punishment. The purpose of bills like 8297, is to put us back into this dishonored category of countries which are in dictatorship, like South Africa, countries not noted to respect the human dignity of others. I think we owe, Mr. Chairman, gratitude for our system for our constitutional system, which through the Supreme Court has freed us from a great harm of ----. I urge Mr. Chairman, that the legislature of Connecticut should not reimpose or seek to reimpose that thing once again on the jurisprudence of our state.

REP. STOLBERG: I'm Representative Stolberg. I'd like to ask two things, one is I find your exposition especially on the legal vulnerability of the bill needing the presumed constitutional requirements very lucid. Is it possible considering the increased number of stands of the Connecticut Bar Association that this argument could be made persuasively to the Bar Association and they could adopt a stand on this question, do you think?

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MR. POLLACK: I'd hope that you would address that question to vice-president Greenfield. I don't have standing to ask Mr. Greenfield that question because his organization has been so expensive to belong to that I ... don't have a membership. I would like to think, to take it very seriously, that the Connecticut BAR Association, would take this view of the matter but I think that you will have to get the answer from them. I have no idea whether the association has an opinion or not.

REP. STOLBERG: Thank you very much for your statement.

REP. WEBBER: Mr. Kelly.

MR. KELLY: Mr. Chairman, members of the sub-committee, ladies and gentlemen. My name is Peter Kelly and I'm a lawyer working in New Haven and I'm here tonight to speak in support of Bill #1647, which would grant a testimonial privilege to newsmen. I'm speaking as a private citizen. The reason that I am speaking is that, I guess that I believe that it is essential for the ---- of our society to have its strong press, one that we can ---- vigorously into all little governments, as well as that never, never land of criminal underworld and other edges of our society and lay the facts before the people. In my remarks tonight, which will be brief, I'm going to address primarily to several aspects which will show a need for this type of legislation. And I want to make a couple of comments on the constitutional ---- which it involves, because even though the Supreme Court rules that a newsman may not interpose the first amendment and the second to compulsory testimony, I think the perpetuating of issues are so compelling in a ---- that they should be decided or one of the ---- on the legislative action on this bill.

The charges of ---- a newsman for not revealing his sources is innumerable. Indeed we're told by history that Franklin's brother was ---- by a ---- authority for publishing something in a Boston newspaper which was detrimental to the British government but its ironic in a sense because there's been very little, if we go from the Colonial times up to the present day, very little evidence of newsmen being jailed for failing to reveal their sources. Now the reason for this is not because newsmen were less equitable in former days, I think that is was more because they had an understanding between the prosecutor and between the newsmen. More or less a gentlemen's agreement as to whether they were required of the newsmen and what they would be required to divulge. I think that this worked very nicely while it lasted. Indeed in 1936, in New York State, Mooney against the Sheriff of New York County, they were hardput to find evidence in a moderately reported case. The reporter having been jailed for failure to reveal the sources. That is until recent months. Primarily during the past year, its been a favorite ----. I think we can attribute this primarily to the growth of government and as it has become bigger and more powerful it tends to flex its muscles a little bit more. Especially the Federal Government which is more remote and is thus much more far reaching.

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MR. KELLY con't: In conclusion and summary I would like to say that it is my feeling that Bill #1647 would provide a valid service to the public at large while at the same time it will protect the individual interest who could possibly be adversely affected in the criminal court room by providing for review by a judge of the highest trial court if any questions may deem necessary by best of a reporter or newsman of this purpose. I don't think the bill one that is made for all people. Before the nameless writer was so important as the bill itself, its the idea of the bill. I think that this is a chance. The opportunity of the legislature to come out with a clear public policy in Connecticut to protect the right of the newsman when you say that the right of any person who makes a statement to a newsman in confidence and be respected and that Connecticut will stand for the idea of a vigorous free press consistent with the First Amendment. Thank you.

REP. WEBBER: Mr. Kelly in the statement of purpose of this bill, which I'm sure you read. It reads and I quote, " To provide for protection of professional journalist from the gathering of news in the interest of a free press." The phrase "professional journalist" disturbs me a little bit. A free lance writer is profest to be a professional journalist. One who might be a member of a faculty in a sxhool and might write a book occasionally, would he or she be a professional journalist? One who writes without compensation and yet has material published would he be a professional journalist. This is a phrase that bothered me not only at this hearing but at previous hearings on the same subject. I was wondering and in the interest of time, I know that we said we wouldn't ask questions. Could you briefly give me your statement?

MR. KELLY: This is a common problem before you legislatures in preparing such a bill and there are about twenty states that have enacted this bill and for quite a number of years. I think a balance has to be drawn between ---- press and what we expect that reaches a large segement of our society of the electoriate. I think that this has been provided for in the bill and I think it completely within the province for legislation to handle this bill in this manner.

REP. WEBBER: Thank you very much. I'm not so sure that I'm completely satisfied but thank you. Mr. Gill.

MR. GILL: My name is Charles Gill, I live at 267 McKinley Avenue in New Haven. I'm a member of the Board of Directors of the National League of ---- Prevention Association which as executive offices in Chicago, Illinois. I'm co-chairman of that organizations sub-committee on the death penalty legislation.

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It is the offical position of that sub-committee to be against the death penalty in this state at all times and in all cases. Ladies and gentlemen a little more than six centuries ago, just a few feet from where you ar now sitting

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MR. GILLS con<sup>t</sup>: there was an execution and that execution was a public execution and it was accomplished with a sword. All citizens in New Haven at that time were invited to be here including children. They were to watch the execution so that the elders could explain the morality of the situation and put the fear of God into them. It really didn't matter what the man did why was he executed and it really didn't matter what the crime that the man was accused of, as we now know, was to be a medical impossibility, he was retarded. What does matter is that our ancestors thought they were right. When in fact they were wrong. Isn't it ironic that we sit here in the same place today considering an issue that is highly impossible to prevent centuries ago, which is our folly today.

This folly is pretty brief. But to prefer even --- killing people in the United States by execution which we haven't done since June 1, 1957. Even though we were ---- for people who murdered as to oppose to rich murdered. While ---- is that we failed to realize that most people who refuse the bill --- murderers make the best ---. As a matter of fact, if you were to tour every prison you would find --- murderers as generally --- the warden of the prison. To make a folly is --- to make the death penalty as a deterrent. I believe it isn't. It is a deterrent to all people who will never commit a murder, even if there wasn't a law for murder instead of a punishment. There are no rewards or punishes that would secure the psychotic person. The person who is under the influence of drugs. There is no law for the person who lacks at the moment practice. There has never been any laws of punishment to deter such people and never will. Does it make sense to have laws that only deter people who don't need deterrent and punish only those who the laws cannot deter? What law would deter a sick mind with a purpose to kill in order that he would be killed? What law deters the weaker sex of this world to either --- the death penalty and try to say there is a death penalty in order to murder?

As you know now, the statistics show in any Superior Court room that the death penalty as a deterrent is a complete and utter failure. There is little fear left that the average man who has control of his emotions that keeps within this law, because the average man with control of his emotions believes that the death penalty for him would therefore, be for all.

Alright if the proposal of the death penalty --- is successful and they do again engage the death penalty, they are taking our rights as our ancients did three hundred years ago in the City of New Haven. Let them have the courage to then. Let them have a public execution on the greens in our cities of our state. Don't do a noble act to hide behind a wall where no one can see and therefore be deterred. Don't --- the right of execution to a nameless employee that as our ancients did to the killing of ---- in public and explain the morality thereafter, to the citizens. It is getting closer to school time closing and have our children assembled and watch. After all once you've seen it its absolutely ----. There are (Poor quality

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MR. GILL con't: because not speaking close enough to the microphone). Those children can discover that we have murders in our society and still watching executions. They are going to find out that the executions didn't stop the murders and then maybe if the oldest grows up wise they can rightfully so and say explain to us the morality of reason in violating a higher law that says "thou shalt not kill". I hope that last years ----, I hope that it will be like the British Isle several centuries ago, they acted executions for Science Christens' ---. They made them public executions but not for very long. Soon thereafter, there were too many people at the public executions. Thank you.

REP. WEBBER: Any questions. Thank you. Mr. Bachelor.

MR. BACHELOR: My name is Bill Bachelor and I'm speaking in behalf of the Society of Friends and I'd like to read a short statement for reopening the death penalty in opposition, HB 8297.

We reaffirm our continuing concern to ---- ----. The devine nature of every human being. More highly God'd life the more highly impossible it becomes to have death by execution. We ---- violence is privilege to ---- pattern of human behavior. The results are plain to see. Violence breeds violence. The only way to eliminate it is to work --- to build peaceful society. We wish others to do as we wish them to do unto us.

The character experience of many nations shows that the death penalty is not a significant factor for prevention for others. So no sense in me --- fear without the wishes of capital punishment will make society more violent. I call on the state therefore, to pronounce the use of murder, which is rightly condemns in others.

REP. WEBBER: The next one is Robert L. it begins with B, I'm sorry but I can't tell. You're next sir. Robert L. Brockway.

MR. BROCKWAY: Members of the Judiciary Committee and general public, I am Bob Brockway and a research associate in psychiatry at Yale School of Medicine. I cannot take to long as I have an appointment.

---- or no fault and ----. I am working on a feasibility research proposal for the National Science Fondation in the law and Science Department to compare Connecticut fault or adversary to California's No Fault. As I see the adversary divorce the title is the "Social Psychological Type of Divorce Under the No Fault and the Adversary Legal Proceedings", a comparative research study. I won't go into the technical nature of this because I just don't have the time. I discussed this proposal with involved personnel and support this type of research attempting --- in this report. They feel that more research is needed in this field. I can explain my own view of this feasibility research proposal as this time. The research is designed require began in early 1973. We late because of the necessary time required to formalize this as a pole and we may not be

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**Transcript of Public Hearing, March 1, 1973  
conducted by the  
Judiciary and Governmental Functions Committee**

[This hearing was held at 7:30 p.m.  
in Cloonan Junior High School, West North Street,  
Stamford, Connecticut]

**Connecticut. Joint Standing Committee Hearings.  
Judiciary and Governmental Functions,  
Part 2, 1973 Session,  
pp. 470-472, 474-480, 484, 488-497, 499-500, 510-513.**

*State of Connecticut*  
**Legislative Bulletin**

Thursday, March 1  
JUDICIARY

7:30 P.M. - Legislators

8:00 P.M. - Public - Locations Listed Below

BRIDGEPORT - Common Council Chambers  
City Hall  
Bridgeport, Connecticut

NEW HAVEN - Hall of Records  
200 Orange Street  
New Haven, Connecticut

NEW LONDON - City Council Chambers  
City Hall  
181 State Street  
New London, Connecticut

STAMFORD - Cloonan Junior High School  
West North Street  
Stamford, Connecticut

WATERBURY - Aldermanic Chambers  
City Hall  
2nd Floor  
Grand Street  
Waterbury, Connecticut

SUBJECTS TO BE HEARD

ADOPTION LAW  
COURT REORGANIZATION  
CRIMINAL JUSTICE  
DEATH PENALTY  
DRUGS AND ALCOHOL  
NO-FAULT DIVORCE  
PENALTY FOR DRUNKEN DRIVING  
SHIELD LAW

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APPROPRIATIONS

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ELIZABETH SPALDING: Are we in favor of a no fault divorce:

CHAIRMAN: Well I don't classify irretrievable marriage breakdown as no fault and some people do. We do have specified grounds for divorce in Connecticut, do you recommend in a, a change in specified grounds for divorce:

ELIZABETH SPALDING: I think we recommend a change in the enforcement on the property division and protection of the mother, that's our primary concern.

CHAIRMAN: As I understand it then you have no objection to the portion of the which, of the bill which states as the single grounds for divorce, irretrievable marriage breakdown.

ELIZABETH SPALDING: Yes I have, I have just spoken to that, I am saying that they are interwoven, the enforcement on the grounds are interwoven and you are dealing here only on the grounds. Am I answering the question:

CHAIRMAN: Do you have any statistics that you would indicate that increasing the grounds for divorce would prevent divorce or do you have any statistics which would indicate that if we change the grounds for divorce divorce would become more likely:

ELIZABETH SPALDING: There are records that we, will show you that no default, no fault divorce in California, thenumber of divorces went up 20% the first year and I don't know what subsequent figures are available.

CHAIRMAN: The number of divorces have increased in Connecticut every year and we haven't changed the grounds for divorce in a long time.

ELIZABETH SPALDING: But where can you get the no fault provision:

CHAIRMAN: I won't argue with you but think the California increase follows the country-wide increase in the States that have not changed their grounds for divorce.

ELIZABETH SPALDING: California is a cooky State because thei divorce rate runs about 120,000 a year compared to 168,000 marriages, nobody else goes that high. I don't think it is fair to compare any comparison with that State at all.

MR. CARL HOLLANDER: Honorable Chairman and members of the committee, I'm from Greenwich and speak first as Clerk of the Stamford Greenwich Religious Society of Friends. The Society sends this minute to this hearing urging that the proposed bills making capital punishment mandatory as a penalty

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for various offenses be defeated. The 7th Advice of the New York Yearly Meeting of the Society of Friends, to which our monthly meeting belongs, says: "Friends are advised to work toward removing the causes of misery and suffering. They are urged to exert influence for such treatment of prisoners as may help reconstruct their lives; and to to work for the abolition of the death penalty." The section on "The Practice of the Life of the Spirit" enlarges on that simple statement: "The testimony of Friends has consistently opposed capital punishment of criminals. This attitude is based on the belief that capital punishment is the ultimate violation of human personality, that it gives no opportunity for the reform and rehabilitation of the offender, that it rejects the quality of forgiveness, and that in some cases it has legally destroyed innocent men." Consequently, not only do we urge defeat of all of the bills naming offenses that require the death penalty, but we also would like to press for legislation abolishing capital punishment completely. I might add, on my own, that this, that our belief is there is no substantial statistical support for the view that the death penalty is a deterrent. I would also like to speak on a budgetary matter, budget for law libraries and I speak as a user of the library of the law library over in the Superior Court Building, Previous legislators have established policy as to what books and legal services should be purchased, the establishment of such policy, in my opinion, mandates the purchase of the supplements to keep such services up to date and some of the supplements are not being furnished. It seems to me that there is a public interest in a neighborhood, all members of the public, to have access to law books services, should they so desire the interest of protection of their lives, liberty and property. If for no other reason, such law books and services should be properly maintained so the superior, Common Pleas, and Circuit Court Judges will have full access to up to date material regarding legal developments in their rendition of justice. Thank you.

SEN. GUIDERA: Mr. Hollander, are you speaking also in favor of S.B.1651, having to do with the elimination of the death penalty and the imposition of mandatory life sentences for one half remainder of the life of the individual.

MR. HOLLANDER: We had not considered a copy of this bill but I which, I think we would favor it and we have no particular position regarding what substitute penalties there should be, although, again, we might not be too happy about the part about mandatory sentence for half of life expectancy.

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SEN. GUIDERA: Well this would be on conviction of course.

MR. HOLLANDER: I realize it would be upon conviction but I, there position is there should be possibility of rehabilitation. As far as the abolition of the death penalty, naturally, we would be very much in favor of that part of it.

SEN. GUIDERA: Would you support a bill that would eliminate the present system used for funding the law libraries which is that the money passes to the State librarian ear-marked for certain law libraries and then is passed along, without discretion of the State librarian to the law librarians, in other words, he is just a funnel to whom the money goes, would you favor, as is proposed in another bill before this committee that a lump sum be given to the State Librarian and that he disperse it as he sees fit to the Law Libraries of the State.

MR. HOLLANDER: I have no way of knowing that effect would have, I just don't know.

SEN. GUIDERA: Thank you.

REP. TRUGLIA: Thank you. My name is Anthony Truglia and live at 176 Fairfield Avenue in Stamford and I am a member of the State Legislature for 145th District. Thank you for the courtesy of speaking here and I thank you on behalf of the City of Stamford that you have time in your schedule to come down to this part of the State and give these people an opportunity to speak on these bills. I appear this evening on behalf of the Aid To Retarded Children here in Stamford, and these people have done some research and wish to state their position on several bills that we believe some are in your committee and some are not but we would like to go on record anyway so we can give our opposition.

SEN. GUIDERA: Would you confine yourself to those bills that are before this committee.

REP. TRUGLIA: I believe perhaps only one is and that would be 6956, am I correct. The Guardianship Bill.

SEN. GUIDERA: You may speak to that.

REP. TRUGLIA: H.B. 6956, referred to as the Guardianship Bill, our group here in town, 500 strong membership, have concurred

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delivering of news to the public by the First and Fourth Amendments to the United States Constitution and the First Article Sections Four, Five, and Seven, of the Connecticut State Constitution. Furthermore, we believe that no special law should be necessary to reaffirm Constitutional guarantees. However, in recent years there has been a trend toward the attempted use of the media as an investigative arm of the government by governmental agencies, defense attorneys, prosecutors, and Grand Juries. We believe that this trend represents a clear threat to the free functioning of responsible news media. The trend, if it continues, will inevitably diminish the amount of news and information available to the public, thus impairing the public's right to know. To protect the free flow of news, we are prepared to support a Shield Law which will provide guarantees to professional newscasters and journalists against interference, harassment or intimidation from any source. Any Shield Law enacted must clearly define the specific exceptions when testimony may be compelled from professional newscasters. It must also provide a clear path of appeal for any member of the news media who wishes to withhold information. In this respect we submit that the language of Committee Bill 8107 in its present form, is too general and too vague. For example, on page 1, lines 30-31, "unless such disclosure is essential to prevent injustice", and page 3, line 81, "information which is relevant to a specific probable violation of law" and page 3, lines 82,83, "such information cannot be obtained by alternative means less destructive of rights under the First Amendment are not available." Experience has shown the readiness of the news media to cooperate with government agencies in cases involving capital offenses. To legislate fairly on the subject of journalistic privilege in what Columbia Law professor, Benno Schmidt has termed the "collission of interests of journalistic freedom and the fundamental social interest in the enforcement of the criminal law" is a very difficult, if not impossible, task. Some legal experts argue that interference with the new media may impede rather than advance law enforcement in the long run. Information freely obtained and responsibly distributed is available to all.

CHAIRMAN: Thank you.

FAY KNOPP: I reside in Westport Connecticut, have worked for the Federal Prisons for the last 20 years and I am here to speak against Bill No. 8297, and I am in favor of the Abolishment of Capital Punishment. I am a member of the religious Society of FRIENDS and one of two people in the country that has access to every Federal prisoner and every Federal Prison. This privilege was given to me by the Director of the Bureau

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FAY KNOPP: of prisons, Norman Carlson. I exercise that privilege frequently and spend most of my life in the prison or with prisoners. I believe the State of Connecticut's Legislators are well-acquainted with the moral, ethical, religious, legal and constitutional reasons why the death penalty should not be applied to any persons convicted of any crimes. However, I feel duty bound to share my perceptions based on my twenty years of work in Federal and State prisons as a visitor and religious counselor; work which has trained me not to romanticize crime or criminals. I shall make a simple statement, rooted into religious and moral principles: no human being or group of human beings should have the right to decide who shall die and who shall live. That decision rests only in the hands of God. All life is sacred, including the lives of those who have acted out against society. Capital punishment is very cruel and very unusual, violating the 8th Amendment of the U.S. Constitution. Bill 8297 reverses the calendar of justice and progress and rekindles the forces of barbarism which have no place in contemporary civilization. Capital punishment is extermination of ones' fellow human beings; philosophically linked to the slaughter of Jews in Nazi Germany where helpless souls marched like zombies to the death chambers; historically linked to the slaughter of Christians who faced jungle beasts and gladiators in ancient Rome; culturally linked to the witch burnings in Salem. The death penalties legitimizes violence in a society that is already saturated with violence. Capital punishment is murder by the state. No matter what euphemism is preferred, and murder and violence have already torn our society assunder. Our society is crying for peaceful social solutions and capital punishment is not a peaceful solution for either the society or the criminal. The death penalty gives the decision of life or death to those who hold power over others, denying due process of law forever to an individual who might benefit from a new law, new evidence or a personal change of attitude. In my twenty years of prison work I have witnessed remarkable changes in the human personality. I have seen innocent men condemned to death, one such person just a few weeks ago was able to introduce an affidavit proving his innocence many, many years after his execution would have taken place were it not for appeals and the Supreme Court decision. I should like to tell you about one person I know and admire and visit frequently; a former member of Death Row in a mid-west state, who will be able to make an impressive contribution to society when he is released on parole. This friend went through the anguish of 13 stays of execution in his 10 years on Death Row until he won a Supreme Court Decision in 1969, citing his jury which imposed the original sentence of death as illegally and unconstitutionally convened and unrepresentative of a true cross-section of the community. Persons with conscientious or religious scruples against the death penalty

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had been systematically excused for cause and not allowed to serve as jurors, depriving him of his constitutional rights to be tried by a fair and impartial jury. Had he not had a strong spirit and brilliant mind, he would have been, as he said in a letter to us: "Strapped into the huge black chair that would reach out to embrace me with greedy arms like an ugly black spider...a spider that at the appointed second would bite and its hot venom, 1900 volts strong would flush through by body, dancing a macabre dance to the scream of the high-powered dynamo. Of course there would be no mistake. A crew had come in and tested the wiring. The men who would perform the actual rite had spent days practicing with a life size dummy so there would be no mistakes when the real thing began. That deadly spider in my dreams at all times, crouched among its web of straps and electrodes waiting for me." During his 10 years on Death Row, he worked in the hospital out-patient ward, ministering to the needs of the sick, creating a safe place in a violent prison where youngsters, psychotics, informers and ex-policemen could be held while awaiting trial without the administration fearing they would be molested. After the Sheriff permitted him to have a tape recorder, he founded, licensed, counseled and supported financially a Michigan Youth Program in Bay City, Michigan. The youth Employment Center, highly praised by the then Gov. Romney. He worked long hours with colleges and high school groups through tapes, and has recently as three nights ago lectured in sociology and criminal justice to a college course taught by the Warden of his prison. He became a highly successful writer and published in excess of 200 magazine articles and stories and two books which had wide circulation. He worked with the seven Steps Program, an in-prison self-help program which cut down the recidivist rate drastically in California and Arizona, and when released hopefully he will be working on a similar program with incarcerated humans in the Northeast with the aid of the warden Duffy, formerly of San Quentin, and the former Warden of Death Row, where he was held for ten years. I tell you all this because today this man who lived all those tortuous years under the death sentence, leads a creative and positive life in a mid-west prison waiting for release on parole so that he may continue his work as in prisoner-help. Had the death sentence been carried out, society would have been deprived of this prison-trained rehabilitation expert, and he would have been deprived of his life. The criminal justice system must not be permitted to deny a man or woman the right to life, and particularly the right to a re-examined life, that most exciting process which confirms and reveals that there is some of God...something good which is retrievable in every human being. There are other statistics I should like to cite only briefly because the courts and the Legislature are familiar with them: Adequate testimony

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has been given to demonstrate that the use of the death penalty in a given state does not decrease the subsequent rate of criminal homicide in that state. States that have inflicted the death penalty do not have a lower rate of criminal homicide than non-death penalty states. States that have abolished the death penalty do not show an increased rate of criminal homicide after the abolition. States that have re-instituted the death penalty after abolishing it have not shown a decreased rate of criminal homicide. Police officers on duty do not suffer a higher rate of criminal assault and homicide from life-term prisoners in abolition states than they do in death penalty states.

In other words, actual experience establishes these conclusions beyond reasonable doubt. No comparable body of evidence contradicts these views. Reliance on the death penalty obscures the true causes of crime and further distracts attention from the effective resources of society to control it. And finally, the most dangerous criminals are rarely the ones executed. Persons who are poor; persons who are discriminated against in the sentencing process or are unable to afford expert and dedicated legal counsel; persons who feel powerless and are uneducated are more often the victims of this cruel sentence: Death. This is not a plea to include "dangerous criminals" who are powerful in the death sentence. Mine is a plea to abolish it for all people. I would not want to see the Commander of any Armed Forces electrocuted for crimes against civilian populations. I would not want to sentence to death the landlords who are responsible for the lead poisoning of so many little children who live in our slums. I would not want to sentence to death those designers of automobiles who create mobile death traps for our consumers. I would not want to sentence to death those whose greed subject our miners in our great country to Black Lung and death because they will not spend money for health and safety precautions as other people in other lands have done. No, I would not want to see any person in this country, for any reason, have taken from him or her, the gift of life which was endowed by our Creator. I urge your Committee to finally put to death all thoughts of capital punishment; to bury the proposed death penalty bill #8297 and speak to life and the life-giving programs our society so desperately needs. Thank you.

SEN. GUIDERA. Thank you. May I ask if there are questions? Ladies and Gentlemen, we have a very long list of speakers and in order everyone has the opportunity to speak and be able to get at, get out at an early hour, may I ask if you have lengthy presentations to submit the presentation, if you have it in writing, or get it to us, shortly, but try to keep your remarks to five minutes so everybody may have a chance to speak at a reasonable hour. Thank you.

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THOMAS FIELD: My name is Tom Field, from Greenwich, Connecticut. I would like to speak to you tonight, not on behalf of any organization or committee, but instead as a citizen who is concerned with the reasoning and the application of modern law in reference to capital crime. I am addressing myself specifically in opposition to any and all of those bills, HB 8277 proposed bills for capital punishment in this State. It seems to me, that in the past 20 years and, an ending research has been poured into the subject of capital punishment, its inception, its abolishment, and in some cases its reinstatement. I, myself, could right here, cite numerous figures ranging from those gathered at a 1958 study of the Delaware Legislative Committee to those involving from the recent Canadian moratorium on capital punishment. All of these, would show that the abolishment of the capital death penalty has resulted in little, if any significant rise in crime and in many cases has actually demonstrated a decline. However, I would feel that the intelligent individual has exhausted his tolerance for statistical game playing by now and get down to the real issue of the death penalty and punishment in general; I cannot accept the contention that all punishment is instituted for the purpose of protecting society, instead it is far too often the result of a reactionary feeling spun off by contemporary events. As a prime example of this, I offer you the proposed S.B. 33 and 35, we are "33" but the death, that the death penalty be mandatory for any one convicted of illegally diverting an aircraft from its scheduled flight or better known as highjacking and bill #35 to provide the death penalty for persons convicted 3 times of illegal, manufacture, sale, distribution, etc., of drugs, which appears to me to be a concession of failure of both courts and rehabilitation centers in meeting this problem. These two crimes were not on the books as basis of the death penalty 10 years ago because of their low incidence then but now that they are frightfully evident we can see the law makers rushing to eliminate the perpetrator instead of challenging their efforts to investigating, challenging and eliminating the causes. Instead of allowing the Government to seek retribution on behalf of citizens, wouldn't be, wouldn't it be of greater reason to initiate programs to uproot the basis for the action of those against those whom we are so willing to strike a blow of vengeance. If we wish to demonstrate a positive concern for punishment in general, let us not be concerned with the severity of the punishment but more with the certainty of it. We find, in today's courts, that although the severity of the punishment may be great, the certainty of its carried out is never certain. In light of this I ask that the State Legislature, instead, of supporting any bill for capital punishment in this State, instead write bills which would, as a result, channel its efforts in improving the condition of those citizens of our State with the intent of eliminating the need for

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any individual to seek out the possessions or existence of another and at the same time I recommend that a strong improvement program be instituted to alter the prisons and penal centers in this state for the purpose of retribution to one of rehabilitation. I ask that the state of Connecticut begin a trend of endorsement for the recent Supreme Court ruling and show respect for the sanctity of life instead of taking it, rebuilding it, thank you.

SEN. GUIDERA: Thank you Mr. Field, Mr. Roman next please.

MR. JOHN ROMAN: Good evening, I appear before you tonight as News Director of Radio Stations WSTC AM & FM. I have been a broadcast journalist for the past 8 years. I serve as a member of the Board of Directors of the Connecticut Associated Press Broadcasters' Association, and as a member of Sigma Delta Chi, a society of professional journalists. I speak here in opposition to the Shield Law, as written by your Committee. Your definition of a "newscaster" is an inadequate one, and leaves a large segment of the profession un-protected. Primarily, it should include both full and part-time personnel, as well as what the trade calls "free lance artists". Many broadcasters rely upon the talents of such part-time and free-lance performers to do the bulk of their investigative reporting. A cursory look at most station staff rosters will indicate the presence of a number of these individuals. Your concept of a "newscaster's" duties also falls dangerously short of properly encompassing the activities in any station. Many "newscasters" never appear before a microphone, or do so infrequently. The performance definition should include those who gather and prepare, as well as analyze and/or comment on or broadcast news. Professional journalists should not be considered as an accessory source of Police investigations, working like so many clams, waiting to be pried open by the nearest Judge's knife. Protection offered the average citizen appearing before a Grand Jury "fishing expedition" is inadequate enough. So what process could there be for a newsman to defend his sources from a probable cause finding, except to place himself in either a position of contempt, or divulge them? What procedure would be used to show, indeed, that any information is not available elsewhere. Would the newsman under pressure to divulge have the right to counsel? The attempt to prove its un-availability seems to believe the effort. What criteria would be established to demonstrate the so-called "compelling and overriding interest in the information"? If such a procedure is possible, it should, at least, be brought before a judge, other than the one hearing the case, whose impartiality is not questioned by any involved party. In my

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In my opinion, exclusion of protection, if necessary, should be limited to capital offense trials. And, then, only with much more carefully outlined procedures than the careless discretionary guides now written in the measure. It could also exclude matters of national security or emergency. I think, personally speaking now, the Committee, by its effort, and I have only directed my comments here towards the broadcasting media, indicates the scattering and fully defined attempt the very problem of, with drawing of a Shield Law, and that is its attempt to deal with, what we consider the absolute constitutional guarantee of our freedom which now exists and we ask you not to tamper with it.

SEN. GUIDERA: Mr. Roman, you spoke with regard to the definitions in Section two, the Act, those definitions are lifted directly from New York State Law.

MR. ROMAN: I might also add, which I failed to enter here is also the fact that many personnel at any radio station who read news have nothing to do with preparing it; a staff announcer might on many cases be reading newscasts and the fact that you have drawn on one area, upon one area to compound another one, sir, I submit, does not make it any better.

SEN. GUIDERA: That's not my question. My question is were you aware that this is a New York State Law?

MR. ROMAN: I'm aware that this language is, has been used in other legislation, yes I am, but I am also aware that it is inadequate and that also is a, inadequate as far as hard print media is concerned. I would submit to you that it is circumspect and is titily written against the benefit of the reporter as possible, for example, it deals only with the man or the woman employed, currently employed in the trade, does nothing to do with a person who would leave a position as a reporter, for example, and then be compelled under its so-called jurisdictions to disclose.

SEN. GUIDERA: Do you believe that the newsman's source should be revealed in cases of liable and slander?

MR. ROMAN: I find most liable and slander cases to be the greatest fishing expeditions of all; I do not find, for example, in my knowledge, any case of liable or slander case where the source is not known to the public.

SEN. GUIDERA: What I mean is, if someone brings an action against you for liable for, or for slander, do you believe you should be protected absolutely from revealing the source

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resulting from the divorce, whereas uniform marriages and divorce provides greater economic protection for women than the common law states now provide. Revisions are still needed and some states are adopting the no cause grounds provided in that law, or otherwise making divorce easier without adopting the provisions relating to the division of property maintenance and child support, therefore, be it resolved, that NOW refuses to take a position of, on no fault divorce legislation until economic safeguards for dependent spouse and children are incorporated into new divorce legislation. Be it further resolved, that the conference proposes a concept of responsible divorce and to this end demands that of State Legislators that no amendment in divorce laws, making divorce easier, be adopted without making changes in laws to assure that (a) the spouse with custody of a minor child, children, and/or students, has no lower standard of living in the spouse without the children and that (b) families without minor children, the spouse who has made a home is able to, is unable to become self-supporting, and is compensated insofar as possible for loss of earning capacity. Thank you.

SEN. GUIDERA: Thank you.

REV. HENRY YORDAN: I am the Reverend Yordan, Pastor of the First Congregational Church of Norwalk and I am here at the urging of the Commission for Racial Justice of the United Church of Christ to speak in opposition to any mandatory death penalty. As a minister and a Christian, I am opposed to the death penalty that, simply on the grounds that every life is the life of a person for whom Christ died but I realize in coming here and urging of the Commission for Racial Justice, the great fear of that commission really is that, as we have experienced, execution in this country, it has never been able to be on a basis that it seemed to work out with justice or equitably and the great concern of that commission is that until we have a society where you can be sure that such laws would be enforced equally with rich and poor, black and white, simply we can't risk trying to have that law changed to have any form of mandatory death penalty so I urge that law not be put into effect. I would also like to speak to the bill 8235 on the dissolution of marriage. As a person who frequently is met by divorced persons who are seeking to be married, I've never yet found a person who, after we talked, felt they were not guilty and so that makes the procedure of divorce quite hypocritical; it just never happens, that any person in a divorce, is not guilty and I find when people come to me who have been divorced,

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an act adopting Connecticut Uniform Alcoholism & Intoxication Treatment Act. It is the position of the Connecticut Jaycees' that the, this bill is presented as such a one that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be afforded their place of treatment in order that they may lead normal lives as ... members of society. At the present time, at least all, one half of all criminal arrests in this country and in the State of Connecticut are dealing with the problems of alcohol and we feel this is a serious problem and a problem that takes up a considerable amount of time and money and because of the type of problem it deals with, alcohol, which is basically a drug, an alcoholism which is an illness, and with 140,000 alcoholics in Connecticut, information as provided by the Conn. Dept. of Mental Health, we have a problem here which is effecting at least 20% of the population of this State and a problem, the problem that we have here is a serious health problem and should be treated as such and alcoholism is the only health and disease problem which is not treated, at the present time in Connecticut, as an illness but is treated as a criminal problem and we seriously recommend to this Committee that this bill be adopted. Thank you.

SEN. GUIDERA: Thank you very much.

MARGARET EKBERG: I'm Margaret Ekberg, speaking for the Greenwich Caucus of Connecticut Democrats. The Caucus of Connecticut Democrats opposes any bill that would re-introduce capital punishment in Connecticut. We are opposed because we question the constitutionality of the death penalty even as expressed in these bills. We are opposed because the death penalty has not proved that it is not a deterrent of crime. We are opposed because the finality of such a penalty often makes jurors hesitate to render guilty verdicts and thus frees those who for, society's sake and their own good, should be confined. We are opposed because capital punishment is discriminatory, statistics showing that those who can afford large legal fees are not put to death while the poor and black are. We are opposed because the authorization of violence desensitizes society, lowering its value for human rights. Finally, we are opposed because it is inhumane.

MR. MONROE SILVERMAN: Mr. Chairman, members of the Committee, my name is Monroe Silverman, I'm from Stamford and would like

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to speak briefly about the news source protective act and the death penalty. On speaking on the News Source protection Act I speak for myself and as a representative of the Caucus of Stamford Democrats. Briefly, we urge the adoption of a broad and absolute news source protection act. Our interest is not really in the protection of the news source or in the protection of the newsman but in protection in the public's right to know. We think that really an investigatory press is crucial to the functioning of democracy and the only way in which an investigation of press man can be complete is if they can guarantee to the sources who want to disclose a wrong doing or improper behavior that those sources would be held confidential. I think Thomas Jefferson said that if he had the choice between newspapers and no government or government without newspapers he'd prefer to have the newspapers without the government. The point is clear and simple that in order for the public to act in an enlightened manner in a democracy the public must have the facts. It has been shown that of the experience of the press over many many years that an investigation that discloses information to the public often results in action that the public can take to protect itself and I think we protect the public and its rights to know if we enact a broad absolute form of a news source protection act. On the question of capital punishment I am speaking as an individual and would like to urge the enactment of bill abolishing capital punishment in any form for any offense. The Supreme Court has spoken on the question and declared capital punishment unconstitutional as cruel and unusual punishment. I have serious question as to whether the bill proposed to reenact capital punishment in some form, in this State, or else where would pass the Supreme Court in any event. Passing that I think probably all of us would agree that capital punishment is cruel and unusual and barbarick. I think the only reason ever induced that makes any sense for capital punishment is that it is necessary except that it is not necessary because it is ineffective. Any study that has ever been done has demnstrated that capital punishment is not an effective and necessary tool to prevent the commission of crime. Where capital punishment has been repealed and then reenacted, all the studies of crimes to which capital punishment has been proposed, has been imposed, make it clear that it is not an effected deterrent. The Supreme Court analyzed those statistics and those studies about the effectiveness of capital punishment and if it is futile if it does not deter then it certainly is not necessary and I don't think there can be any argument that it is anything but barbarick imposition, it is the taking the, of life, it encourages, therefore, disrespect for life for even if it is the State itself which takes the life it encourages in

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others, a view that life is not sacrosanct and under some circumstances can be taken and therefore I urge capital punishment, really in this state, abolished by Supreme Court decision, now be abolished by enactment and not be introduced in some form to avoid the decision of the Supreme Court.

REP. BINGHAM: Mr. Silverman, you use a term absolute shield, does that mean that the First Amendment rights of the press would take precedence over the Sixth Amendment rights of the defendant:

MR. SILVERMAN: Mr. Bingham you raise the toughest question of all, what would happen when there is a disclosure in the press of some information without names that would possibly exonerate a criminal. I think, under those circumstances, there could be a very narrowly defined exception that with a court ruling that there is some possible exculpatory witness who was, who has given information to the press men, who might, when someone was on trial for criminal offense and only when a trial was taking place, I think that exception would be acceptable.

REP. BINGHAM: And the case of a liable suit against the press where the press interposes an defense of truth:

MR. SILVERMAN: Well I don't think that's a problem, really, that's a suit between private individuals, that is someone suing the press for liable and now if the press wants to defend that suit, if they choose, if they want to use truth as a defense let them prove the truth; they are the ones that have at their commands, the source that gave them the information. If they can't prove the truth of the matter printed in the press, without divulging the source, then it is up to them whether they should honor the confidentiality for, or disclose it to protect themselves in that law suit. I don't think that is a matter that has been covered in this act, I think that's a question open to the person defending that law suit.

REP. BINGHAM: On the question of the death penalty, the case of a life-terminer escaping from prison and killing a prison guard, would you say the death penalty should be abolished in that case also?

MR. SILVERMAN: I would, yes, I just think that it is inhumane to apply the death penalty under any circumstances. Obviously mistakes can be made, you can't, if it turns out you convicted the wrong man, even this person was not guilty of the crime, you can never revoke that penalty. The studies have even shown that there is no greater attacks

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on prison guards by people who, where you have a death penalty to be imposed, for attacks or killing a prison guard, it just doesn't work as a deterrent; the things that work as a deterrent is the certainty that the criminal court or apprehended, caught or apprehended, the death penalty really distracts societies attention from the real causes of crime and you think you are going to solve things by making a more severe punishment. I think you are going to solve things more readily by attacking the root causes of crime such as poverty, lack of education, lack of equal opportunity, and also involving methods that will bring certain capture and retribution to criminals who will be in fear of being caught rather than imposing a death penalty, which likely is not going to be imposed anyway, as a matter of fact, studies have shown the non-mandatory death penalty was introduced originally because when you had a mandatory death penalty, juries just refused to convict. So it might be when you have a mandatory death penalty, there would be less fear of the death penalty in some circumstances because if the juries aren't going to convict the certainty of the punishment is not there, it's the certainty of the punishment, rather than the severity of it. Thank you.

REP. BINGHAM Thank you very much.

VIVIAN EISNER: I'm a citizen of the State of Connecticut living in Stamford. I look around the room and I realize I've become a self-appointed representative of the poor, black, ugly, and friendless, people most effected by the death penalty bill. I see they are not here tonight and it is unlikely that you are going to hear from them in the mails either, because those people, the poor, and the friendless, the young, often find it much too difficult to do more than just live their lives, hold their lives together; a life that this State sees fit, according to this bill, to kill, individuals who kill in moments of passion or anger are not deterred by the death penalty and in many cases they welcome it. Professional killers do not expect to be caught and because of their command of legal and organizational resources are perhaps the ones least likely ever to face a court or execution. The moral and legal principals and the ray of factual evidence that persuaded the majority of the Supreme Court in 1972 to rule against the death penalty as currently administered, destroy the basis for reintroduction of the death penalty of, in any form for any crime. The death penalty continues to be the symbolic representation of everything that is brutal and futile in our present system of criminal justice. Capital, if capital punishment were deterrent, States that have abolished capital punishment would have a higher homicide rate but they don't. The rate in Michigan, 1970, was 8.9% for 100,000 people. There is no capital punishment there and in Illinois where the death penalty has

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been retained the murder rate was 9.6% per 100,000 persons. Clearly there is no case for the State to kill people. It seems to me that if this bill passes the State is killer, no law group represents me, or the poor, or the friendless. Thank you.

REP. BINGHAM: Thank you very much.

MARGARET WEINBERG: Margaret Kurth Weinberg, 11 Big Oak Circle, Stamford. I speak as an individual, not for any group, and I wish to comment briefly on three areas under consideration tonight. Capital punishment, Shield Law, and No-fault divorce. First, I strongly and totally oppose capital punishment, and, therefore, HB#8297. I was grateful for the Supreme Court ruling in the Furman case in which the majority called capital punishment a cruel and unusual punishment used infrequently and arbitrarily, and indicated that deterrence can't be achieved through such a practice. Now the originator's of this legislation for the State of Connecticut, presumably believing deterrence can be gained by redefining the occasions for capital punishment seek to remove the arbitrary nature of past practices by imposing mandatory death sentences in specified cases. I'd like, first, to address the deterrence aspect. Under current practice, the use of capital punishment in any given state has not decreased the rate of criminal homicide - capital punishment states do not have lower criminal homicide rates than non-capital punishment states, nor has there been an increase in the criminal homicide rate after reinstatement of the death penalty. In Michigan, with no capital punishment, the '70 rate was 8.9 per 100,000 persons; in Illinois with capital punishment the criminal homicide rate was 9.6 per 100,000. I'd like to mention that on duty, police officers and prison personnel (and prisoners as well) have not been assaulted at any higher rates in states which have abolished capital punishment. Next, I'd like to speak to the demonstrated arbitrariness or unfairness of capital punishment. To begin with, in connection with the 350,000 homicides in the U.S. in the past 40 years or so, fewer than 3,334 people have been actually executed. And of the legal executions during this period, 54% were of blacks. In some specific cases the story has been even more discriminatory: in cases of rape, punishable by death, 90% of those put to death were black. The poor have also seemed to be discriminated against. I truly believe that such patterns of discrimination would continue under any of the proposed capital punishment laws and that the poor and black would continue to suffer disproportionately. When it comes to mandatory sentencing, please

take note that in the past juries have assumed some discretion in sentencing..I feel the danger would now be that the prosecutor of, or the state would in effect, exercise such discretion when they decide whether or not a particular case is to be tried as a capital punishment case and indict for a capital crime or a lesser one. This is an invitation to another sort of bias or arbitrariness. Then, too, juries may end to convict less often when having to chose life or death at the same time as they speak to innocence or guilt, possibly freeing more guilty people in this way. But most important to me, finally, is that the society which claims the right to take life in any area for any cause signals attitudes which carry over to other areas, a life denying attitude which devalues life, as well as the arrogant attitude of being so sure, so certain of the rightness of one's decisions in life-death matters that the irrevocable nature of death is ignored. I feel that those who oppose murder, war, abortion, all manner of violence to human life and potential, as I do, should find a logically consistent position in opposition to capital punishment. Second, about the Shield Laws, under consideration, I am for the concept of a Shield Law if it actually safeguards freedom of the press against encroachment by government. However, in the case of HB8107, objections have been raised on the grounds that it would, by clearly defining areas which are now grey in actual practice be a limiting factor. I oppose this. I would rather have no law at all and let custom continue to operate as we are. HB5213 seems closer to the almost unconditional goal and represents more of a support position for the press than it does a limitation. I believe democracy works only with the freest sort of press and see no evidence of harm done to society the exercise of first amendment rights, present hysteria notwithstanding. Third, I favor the no-fault divorce concept and Representative Bingham's Bill, 8235, But approve fairer arrangements when child-support is involved and there is non-compliance. Thank you.

REP. BINGHAM: If those support positions, provisions were strengthened, and I don't think there is a Committee member who does not support support payments, you would then support the no-fault divorce...

MRS. WEINBERG: I think the enlarging of the grounds to this irrevocable break-down is fine, absolutely necessary.

REP. BINGHAM: Thank you very much.

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EMANUEL MARGOLIS: Mr. Chairman, Senator Finney, I feel a little bit like a camp follower because I appeared before your Committee in Hartford and I realize I maybe asking for a second opportunity in a sense, but I am Emanuel Margolis, live in Westport and labor in the Stamford vineyards as an attorney. I just don't feel that I can pass up an opportunity to appear before this Committee, in opposition to the proposals on capital punishment and I regret I don't have a written statement, I do feel that the two of three members present and co-chairman of the Committee being attorneys, that (changed record) be examined with particular care and weighed in the context of what it is that the senate bill in question is attempting to do and I really believe the bill that is drafted, S.B. 8297, not only doesn't do it but, in effect, you are attempting to carry, in long range terms, of course, a majority of the Supreme Court with this kind of a bill and seems to me that you have written a kind of a bill where, believe it or not, you lost Chief Justice Berger, Justice Ranquist and several other members in the minority in their opinion. I'd like to call your attention to that part of Chief Justice Berger's dissenting opinion and it is obvious that you are not going to carry the Chief Justice and those whom he carried with him, at, that any such bill as this is not going to pass constitutional muster; Chief Justice Berger, as you know, carried Justice Backman, Powell, Franklist with him, and in pointing out what seemed to be the main thrust of the majority opinion, mainly that it was a violation of unusual punishment because of the infrequency of its use and the discriminatory nature of its application. The chief justice, in fact, anticipated what the Legislature seems now about to do and based on the opinion that he has submitted, I think it is very clear that you would not carry what is obviously the conservative wing of the court let along the liberal one. Chief Justice said as follows, in the course of affirmative opinion: "Real change could clearly be brought if the Legislatures provided mandatory death sentences in such a way as to deny juries the opportunity to bring in a verdict on a lesser charge. Under such a system a death sentence could be avoided by a verdict of acquittal. If this is the only alternative that the Legislature can safely pursue under today's ruling, I would have preferred that the court ...for total abolition. Chief Justice goes on to say.. it seems remarkable to me, that with our basic trust in lagers, as the keystone in our system of criminal justice, it should now be suggested that we take the most sensitive and important

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of all decisions away from them, which is precisely what this bill does. I could more easily be persuaded that mandatory sentences of death, without the intervening and ... impact of lagers, are so arbitrary and, in doctrinaire that they violate the constitution. The very infrequency of death penalties imposed by jurors attests their cautious and discriminating reservation of that penalty for the most extreme cases. I have thought that nothing was clearer in history as we noted in McGauther, that's the McGauther decision, one year ago, that the American outthorance of the "common law rule" imposing a mandatory death sentence on all convicted murderers. As the concurring opinion of Justice Marshall shows, the 19th century movement away from mandatory death sentences marked an enlightened introduction of flexibility to the sentencing process. It recognized that individual culpability is not always measured by a category of the crime committed. This change in sentencing practice was rated by the court as a humanizing, was greeted by the court as a humanizing development, citing cases from 1899, 1889, 1948. The Chief Justice goes on to conclude this is all by way of disagreement with majority of opinion. It has been widely accepted that mandatory sentences for crime do not best serve the ends of criminal justice system. Now, after the law of process of drawing away from the blind imposition of uniform sentences for every person convicted of a particular offense, we are confronted with an argument perhaps implying that only the Legislatures may determine that a sentence of death is appropriate without the intervening and evaluation of jurors or judges. This approach threatens to turn back progress of penal reform which has moved until recently at too slow a rate to absorb significant setbacks. So speaks the chief justice. Mr. Justice Blackman who also dissented and I am interested, trying to call your attention to dissenting of opinions because it is obvious that this particular bill is part, in part built on dissenting of opinions and part of the Supreme Court. Mr. Justice Blackman has made it clear that the statutes stricken down today, and I am quoting him, will be reenacted by State Legislators to prescribe the death penalty or specify crimes without any alternative for the imposition of a lesser punishment in the discretion of the judge or jury as the case may be. This approach, it seems to me, encourages legislation that is regressive and of an antique mold for it eliminates the element of mercy and the imposition of punishment. I thought we had passed beyond that point in our criminology long ago. In addition, Mr. Justice Blackman, as do the five majority justices, have some real problems in equal protection of the law, due process which would be necessarily inherent in the kind, the very kind of bill that you are now proposing and I think it is very important to note that statement contained in his opinion, as well as clear indication of similar point of view in the opinions

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of Mr. Justices White, Stewart and Mr. Justice Brennan. Sections three and four of this bill, #8297, may very well accomplish the limited purpose of providing the kind of predictable penalties, the kind of inescapable penalties, mandatory penalties, and the frequency of the imposition of those penalties, which would begin to deal with the affirming decision and begin to get you around the Eighth Amendment but you no sooner get around the Eighth Amendment, I submit then you are caught on the horns of due process and equal protection and I think it is an impossible dilemma to resolve if you read the majority opinions and the minority opinions, particularly that of Chief Justice. This bill, I submit, is infected with all the symptoms with the apparent cheapness of human life and also the relatively notion that some how or other some lives are more valuable than others. As I mentioned, when I spoke in Hartford, it is reminiscent of George Ordwell's animal farm where he states that all animals are created equal but some animals are more equal than others and the animals that you have made, or that this bill proposes to make more equal than others, of course, the law enforcement officer, the volunteer or paid fireman, the guard at the, acting at the scope of his duty, and certain other kinds of persons who are to be protected under this bill and I really ask not by any means fiscally but with all due respect why the killing of a volunteer fireman is some how or other punishable by death and the killing of the co-chairman of the Judiciary Committee of the State Legislature might not be, I don't know what makes your life or my life some how or other not worthy of that kind of .. punishment. I also think it raises certain questions on equal protections side and also call your attention to the fact that in Mr. Justice Blackman's opinion, he points out that as a result, and he points this out somewhat regretfully, that as result of the Supreme Court's decision infirming capital punishment is no longer available for such crimes as treason, assassination of a President, Vice-President, or those who stand elected to those positions, assassination of a member a member elected of Congress; some how or other, under this bill, the volunteer fireman with all due respect to him, will be placed on a level above the President, Vice-President and member of Congress. Now, it seems to me that what is being attempted here is simply a response to some kind of real or imagined sentiment in the state legislature that there is some vast majority out there in the State that wants Capital Punishment to, reimposed. I read an article recently that indicated that there was such sentiment in favor of the restoration of capital punishment and for this reason it can be anticipated that the State Legislature

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will, in fact, proceed with some forms of capital punishment bill. I attended almost four hours of testimony before your Committee in Hartford and I heard one man throughout that entire evening speak in favor of the restoration of capital punishment in the State of Connecticut. To my shock and amazement he was a congregational minister. I've been here all evening tonight, most of it, and I have not heard a single voice raised in favor of the restoration of capital punishment. Now I don't really know if these hearings are really intended to be what they are set out to be and what they are advertised as, namely as a means of obtaining the pulse of the public, where the public stands and what the public wants, it seems to me that there should be some attention paid to the fact that many many Connecticut citizens going, go on to Hartford and now in Stamford, and in Bridgeport and New Haven, testifying against this legislation and I would submit testifying in very large numbers. In conclusion, and I am sorry that I am taking this much time because I have been given an opportunity to speak before, I would like to caution the Judiciary Committee, membership and their chairman, that no matter what you do in this area, by way of legislation, it is really safe for you to assume, and it has been pointed out by other speakers tonight, rest assured, that the Leopolds and the Lobes will not be sentenced to death but only the William Firmans, the Lucien Jacksons, and the Roberto Godlotos, being a man who was on death row in the State of Connecticut, and who I have been representing in the field process, in the appeal process, and who was fortunate enough as the result of the Firman case, to have his sentence of death revoked and to have his particular life restored to him so if I am here in a representative capacity I would claim the representative capacity of having representing one of the three men who was on Death Row when Firman came down. Thank you.

Firman

MR. NORMAN LATER: I live here in Stamford, this won't be very long, I write big, I am in favor of bill number 8235, AN ACT CONCERNING THE DISOLUTION OF MARRIAGE. I support it as being more equitable than the present law regarding alimony. I present myself as a victim of a current divorce law which is unjust, ruthlessly administered regarding the husband, especially where there are no children. My remarks, I repeat, are directed to divorces where the wife is not a mother. The current law has no bounds as to the alimony her husband must pay and the Appeals Court have rules that the amount of alimony is up to the Trial Courts discretion. The present law regarding alimony does not distinguish between a long marriage or a short one; does not distinguish between long cohabitation or short cohabitation; it does not distinguish

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awarded her by such decree in absence of unusual circumstances. My comment, a divorced wife can live with another man but not marry him so that she can continue to receive alimony from the divorced husband. There is a case of Cornus vs. Cornus, 1955 decision, on page 145, even though divorced wife subsequently married another, judgment for alimony stands until it is judicially modified or vacated, my comment, the wife is not legally obligated to inform her husband of her remarriage and because of his ignorance the husband must continue to pay alimony. There is a case Elmer Vs. Elmer, 1952, decision, page 149; the section authorizing an award of alimony gives the court a wide discretion, my comment, the laws for other crimes limit the power of a court by fixing maximum sentences; the sentences under the current divorce law unlimited. Day Vs. Day, 1942, decision, page 150, a defendant is in no position to ask modification for the order of payment of alimony where he is in default of payment of the same and no sufficient excuse default, for such default appears, my comment, suppose a husband is ill and has no income but has resulting expenses, but because of ignorance does not contact the lawyer because, to whom he must pay a fee, or perhaps he thinks he will recover shortly but doesn't, and during this time the wife may be living comfortably without the alimony. Why does the law cruelly drive this man to destitution? A bankrupt is given a chance to start over again, the destitute husband can never recover; he'll never be able to wipe off his debt; the law is almostpastic in its cruelty. There is the case of Therquonoto Vs. Therquonoto, 160 decision, pg. 152, in contempt proceedings for, against divorced husband who is in arrears of payment of alimony, the evidence, including evidence that subsequent through the divorce the wife's misconduct a man in New York resulted in birth of a child and that such man was already married, that fall to establish the husband's defense that the wife entered into a common law marriage under New York Law, my comment, if as a moral woman, the wife married another other than the divorced husband, the husband might have obtained relief but because she was an immoral woman the law rewarded her. Thank you very much.

REP. BINGHAM: Thank you.

8297  
 ATTY. GRABHART: I'm an attorney in Stamford. You have heard tonight a large amount of statements and opposition to the death penalty bill. I agree with those statements and don't think any purpose would be served by repeating those statements here but on the other hand I would like to call your attention to what would happen if this bill were to become law? First of all, I think the people of Conn. should

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be told that the bill probably will have no effect whatsoever upon the incidence of murder, either of the kinds mentioned in the bill, or of other varieties. Studies have shown that the certainty or speed of punishment is far more important than the degree of punishment. Capital punishment traditionally has never been applied speedily and never will be because of our concern of the rights of the accused and after conviction, that we give them every possible chance to prove there was an error in his conviction or that he was unjustly convicted because of the very finality of the death penalty. In addition, although this bill is filed as a bill, as a mandatory death penalty, we all know that nothing is mandatory, that juries will convict of lesser degrees and at the end the same people will be convicted and sentenced to death and the same people will not under the present law. The bill, therefore, would really not accomplish a purpose, all it would do is send a few persons to the electric chair and for this I do not think the State of Connecticut should in 1973 go on record by supporting murder by the State. I would like to point out one further detail in this bill, however, which is and I think it is inadvertent, I hope it is, Section two, which is the amendment to the current murder statute, you have deleted the provision for felony murder and the provision in section three, the news-section, sub-division six, does not cover the same grounds. For example, if you were to have a murder committed during the course of a robbery in a store, by one who had never been previously convicted of a murder or robbery, that person, under the proposed bill, would not be liable for conviction, either as a capital offense or as murder with a life sentence, rather he would be sentenced for, or if convicted, manslaughter and robbery, and I just don't believe this was the intent of the Committee in drafting this bill. Thank you.

REP. BINGHAM: Thank you sir.

RUTH LEVINTAN: I live in Stamford and here as a private citizen interested in a free press. I would like to speak in favor of an absolute Shield Law, giving newsmen complete protection of sources. As other speakers have pointed out, legislation with ambiguities and loopholes who fail to give protective, effective protection, and, may, in fact, facilitate prosecution. I support the Ratchford Bill which is Bill 5213 as being the best measure before your Committee on this subject and also brought with me a short article which shows the kind of situation in which these issues are likely to come up and would like to take one minute to tell you about it. The newsperson involved is Gilbert Kellum, publisher of the Weekly Wallingford Post who is being sued for liable by a wealthy Massachusetts financier.

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time. Other people spoke but again I think that it is time, and I trust that you will convey this back to Hartford, that someone think and cooperate and communicate with some of the agencies like the Stamford Aid For Retarded, Star in Norwalk, we will be quite happy to work with you, but we would like to have our view known, made known, and on sensitive things like guardianship, as you men who are attorneys, members of the committee, fully recognize, when you are dealing with guardianship problems with respect to retardates you have particular problems so I hope my few remarks here this evening are taken in the right spirit that many of my fellow board members are, over the years, have never taken an issue but those of us in town who know me know that I do speak out and I do take issue and I am not just taking it with the local officials I am taking it with the State officials. Thank you very much.

REP. BINGHAM: Thank you.

REV. GROVER WILSON: Grover Wilson, Stamford, Connecticut, Mr. Chairman, members of the Committee, I speak on my own behalf and also on behalf of the Church & Society Committee of the...Connecticut Valley, 23 Presbyterian churches in Connecticut and also on behalf of Conn. Conference of United Church of Christ, which has 300 Congregational churches in the State of Connecticut. There are friends that are co-sponsoring these bills, 8297 and 1651 on capital punishment and I thank them and congratulate them for updating our laws from 1969 to the present time, and also to conform our laws to National standards and I pray they will continue this interest. I am opposing both bills on capital punishment, however, on the same grounds, the ground being that death penalty is no longer a modern means of deterrent and punishment. The bills are well intended but I think they are weak and catch-all and omnibus language. Example, in 8297, Section 4., on the use of drugs and pushing drugs, the purport is made that pushing drugs is a more serious crime against society and, then it is caused by firearms, beverage alcohol or automobiles. Statistics actually do not bare this out. This whole section is based on fear and ignorance, alternate punishments are a greater deterrent. Human life, from a Christian standpoint, is a precious quality and limited to duration. The groups that I represent, and I, believe that the death penalty is not a modern option for punishment, that it's threat does not deter serious crimes. From the standpoint of law and mercy, forgiveness and rehabilitation, we urge defeat of these bills on the grounds that they preserve the death penalty which we think is an out-of-date option either

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for punishment or deterrents. Thank you.

REP. BINGHAM: Thank you.

LUCY JOHNSON: My name is Lucy Johnson, Democratic State Central Committee Woman from the 36th District but I am here speaking for myself. I am sorry to come to you so late in the evening, I would like to speak briefly on three of the bills before you tonight. Actually the first bill is at least eight bills; I hope you will disapprove all of the bills making the death penalty mandatory for certain H.B. 297 specific crimes. The only possible excuse for this kind of bill is if the death penalty is, in truth, a better deterrent to the crime involved. Statistics do not prove this in any case I have heard of. Crime seems to rise with or without a death penalty and although I am most deeply concerned about all of the crimes mentioned, especially the assassination of police and the hijacking of airplanes; I do not see that the assurance of execution will stop these crimes. Certainly the proponents of capital punishment are not completely convinced of the correctness or effectiveness of their point of view. They have not used the death penalty in Connecticut for many years, although they could have, even in the last 2 years, and of course, as has been pointed out by others, there is no suggestion that the full deterrent power of capital punishment be brought to bare by the holding of public execution. If capital punishment will not surely prevent these crimes, the penalty as attached to, there are too many other reasons why it should be abolished. I know others have listed these reasons to you many times this evening and I won't go through them again. I just urge you not to bring out any of these bills and perhaps consider a resolution or a bill that would effectively deny the use of capital punishment in the State. Although happily, I know very little of divorce and I can't comment on the substance of H.B. 8235. I will support its statement of purpose certainly and I would like to go on record as trusting Elizabeth Spalding to have covered the major points to be brought to your attention. Finally, I would like to support a full Shield Law for journalists. Like which ever founding father it was, he indicated that, who indicated that although we could get along with free press, he knew darned well that we couldn't get along without free press. I do believe, that is, I do not believe that we can afford to delineate the areas that newsmen cannot step without going to jail; that is what a partial Shield Law does and I am sure that a partial shield law is as bad or worse than no Shield Law at all. Please give our press, journalists, full protection.

MR. MICHAEL GRANNEY: I live in Stamford and a private citizen

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I should like to speak briefly on the proposed so-called No Fault Divorce Bill; I am amazed at the questions that has been asked by some of the proponents of this legislation, specifically that it will somehow solidify marriage, strengthen the family and marriage as an institution in our society, to me I think this is inconceivable, however, I will try to be brief, enough points have been made, with which I can clear this evening, but others are more eloquent, and I should like to quote, if I may, with, those lines from a letter to the Editor in last night's Stamford Advocate, February 28; which states, "it is axiomatic that any steps which ease the obtaining of divorce will lessen the deterrents to imprudent marriage and it is proper to ask at what point the social benefits, facilitating divorce will be outweighed by the social costs", and I think that is really the essential question we have to face. The gentlemen that wrote this went on to say, "but rubs, but what rubs the hardest is the notion that divorce should be labeled no fault, dual fault perhaps, or maybe equal fault, but no fault, ridiculous. It seems to me what we are encouraging is an attitude that is going to lessen the regard we have for marriage and seems to me just another step in the direction of totally pagan society that we seem to be headed for but if we are going to make it so simple to acquire a divorce, it seems evident to me that there will no longer be much of a deterrent to people that will prevent their entering into, rashly into marriage, what the writer of this letter calls an imprudent marriage. I don't think there is anything else I can say that will add to what has already been said and thank you.

REP. BINGHAM: Thank you.

MRS. ALVIN M. JOSEPHY, JR.: This statement is made on behalf of the Education and Legislative Committee of the Greenwich Democratic Women's Club: We urge that under no circumstances the death penalty be adopted by the Connecticut State Legislature in any form. It has been proven time and again that the death penalty is not a deterrent to serious crime. That it is applied randomly at best and discriminately at worst. The death penalty violates equal protection of laws because it is imposed almost exclusively against persons who are already victims of overt discrimination in the sentencing process or who are unable to afford expert and dedicated legal counsel. Thank you.

MARY STACKPOLE: My name is Mary Stackpole of New Canaan. I speak as a private citizen against Bill #8297 or any other bill legalizing the death penalty for any crime. I have

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been unable to find out what the purpose of #8297 is so far. If it is to deter crime it has been a total failure in the past. For deterrence of crime I suggest, one, alleviation of poverty and social injustice and two, total alteration of the penal system to make it rehabilitative and three, banning "Saturday Night Specials", strict licensing of all guns and ammunition and eventual abolishment of arms-bearing by the police. Capital punishment is regressive and barbaric. Respectfully submitted, Mary Stackpole, 928 Poms Ridge, New Canaan.

REP. BINGHAM: Declared the hearing closed as there were no other speakers to be heard.

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**Transcript of Public Hearing, March 1, 1973  
conducted by the  
Judiciary and Governmental Functions Committee**

[This hearing was held at 7:30 p.m.  
in City Council Chambers, City Hall, 181 State Street,  
New London, Connecticut]

**Connecticut. Joint Standing Committee Hearings.  
Judiciary and Governmental Functions,  
Part 2, 1973 Session,  
pp. 533-549.**

*State of Connecticut*  
**Legislative Bulletin**

Thursday, March 1

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7:30 P.M. - Legislators

8:00 P.M. - Public - Locations Listed Below

BRIDGEPORT - Common Council Chambers  
City Hall  
Bridgeport, Connecticut

NEW HAVEN - Hall of Records  
200 Orange Street  
New Haven, Connecticut

NEW LONDON - City Council Chambers  
City Hall  
181 State Street  
New London, Connecticut

STAMFORD - Cloonan Junior High School  
West North Street  
Stamford, Connecticut

WATERBURY - Aldermanic Chambers  
City Hall  
2nd Floor  
Grand Street  
Waterbury, Connecticut

SUBJECTS TO BE HEARD

ADOPTION LAW  
COURT REORGANIZATION  
CRIMINAL JUSTICE  
DEATH PENALTY  
DRUGS AND ALCOHOL  
NO-FAULT DIVORCE  
PENALTY FOR DRUNKEN DRIVING  
SHIELD LAW

Friday, March 2

APPROPRIATIONS

be opposed strenuously. Violence has become prevalent and is a most serious concern for all Americans. The death penalty is ultimate violence, barbaric and inhumane.

The death penalty has been described as a deterrent to anti-social behavior but history has not proved this assertion true, and aggressive, anti-social acts increase. Use of the death penalty disregards the fact that this is an age when adequate techniques exist to assist the individual to become rehabilitated to the demands of our society. Now is the time when State and local leaders must have the same wisdom and courage as the Supreme Court and place our State in the forefront of moral leadership badly needed in these times.

The Judicial Committee's Bill 8297, which specifies the death penalty for certain crimes in the State of Connecticut, should not be enacted into law. Such a law is based upon retribution and employs cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution; and it disregards the guarantee that no State shall deny and person, rich or poor, within its jurisdiction the equal protection of the law, since the death penalty permanently deprives its victim the benefits of new law or new evidence which could reverse the evidence of guilt, thus defying the Fourteenth Amendment as well as the Eighth.

It never should be forgotten that our government is based upon the truth that all persons are endowed by their Creator with the right to life. The sanctioning by the State of the taking of human life has a debasing effect upon the community, and tends to produce the very brutality it assumes to prevent. We are opposed to the death penalty.

REP. CROUCH: Would you be in favor of Senate Bill 1651?

STOVER OLDS: I have not had any chance to really read this and I wasn't really aware of it till this evening but if this provides the death penalty then we would not be in favor of it.

REP. CROUCH: So if it does provide the death penalty. Thank you.

ELIZABETH AMBELLA: I am from the University of Connecticut but I am not speaking for them only for myself. .... Another point of view from the last speaker just to recall briefly, the reasons for which we years ago the Supreme Court ....did outlaw the death penalty. They did it on two grounds; they indicated that there was no substantial need for capitol punishment was effective at all in deterring crime and it was probably grossly unfair the effect on people. There are several sociological effects I am sure you are aware of the possible punishment does not work.

.....In states that have abolished the death penalty there was no substantial increase in criminal homicide. In states that reinstated the death penalty, the absolute abolition there was no further decrease. So the idea of capital punishment is on the record no deterrent to capital crimes. Secondly on the issue that the Supreme Court decided that.....it is also free from technical study that it.....the execution of individuals .....the minority and the undeducated. They are usually without adequate representation in trial or at appeal. This is especially true when it is applied to.....since 1930 64% of the people executed in the United States were black. That indicates a murder. When it comes to rape 90% of those executed in the United States were black. So those were all academic reasons it is unfair and it does not support. What they should do is not for us to say .....that would save a lot of money and food .....but if you go back to .....I think it does an injustice because .....the true causes of the criminal behavior that one sees in our present day society and it does not take advantage of .....of society it might control some of these things by the use that we seek.

LOTTI B. SCOTT: Tonight I speak as a private citizen. I am opposed to the death penalty because I feel it serves no valid social purpose in that it has not proven to deter crime. The administration of it has been inconsistent and arbitrary resulting in discrimination against blacks as well as poor persons. I would like to read a couple of quotes from the case against the death penalty by Hugo A. LeDuc. Any punishment can be effective only if its consistent and properly enforced. Capital punishment does not meet those conditions. Only a small portion of first degree murders are sentenced to death and even fewer are executed. .... between life in 1960 9 out of 10 persons convicted of first degree murder did not get executed. This goes further to show that the use of the best penalty in a given state does not .....The use of the death penalty in a given state did increase criminal homicide in that state. ....as a group do not have.....States that abolished the death penalty did not show any decrease rate in crime. .... and homicide in states that have abolished the death penalty. poor tape.....there has been substantial evidence to show that the courts have been arbitrary, racially biased, and unfair in the way they have fined and sentenced some persons. Studies show that the higher rates of execution of blacks and .....can not be explained then any other factor. Race is not the only moral issue ...who gets executed and who does not. A defendants poverty ..... inadequate legal representation at trial or appeal all of these have .....For those reasons I oppose the death penalty I feel they have no place in our society and no place in the system. Thank you.

CARLEEN B. LEE: I am speaking for the Norwich Branch of the NAACP. I want to testify against House Bill # 8297. Taking the position that truth of the value of the death pen-

alty as a deterrent to crime has not been accentuated and therefore, deserves further .....True at best it is applied .....as it was imposed almost exclusively against the blacks, racial minorities, and for the poor. For these are nothing but discrimination. The poor can ill afford the expert or the deicated counsel that is required to assure justice are just victims of their social or economic status. There is much documentation of this .....of discrimination. this is yet to be eliminated from the judicial system. A proposal mandating the death penalty for any crimeeshould not be upheld until there is truer quality under the law. As it stands today, there are .....that discrimination exists in the it is the black, poor individual who makes up the consistency of the .....it is the black ghetto. A man is consigned there by the fact that he cannot afford the good lawyer or by the fact that he is a black man .... by our society. The Ohio Legislators set up a commission in 1961 reported that comparison of 200 homicide ..... within the same state the poor.....death penalty and before and after restoration do not provide ..... that the death penalty does deter or does not deter homicide. Yes the state of Connecticut wishes to have a death penalty it is essential and .....legislation of this sore defeats the purpose in justice and .....under the law seems .....the death penalty must be opposed.

HYMAN WELENSKI: The Connecticut Bar Association endorses in principal committee bill no. 8269 which provides for creation of a commission to study and prepare legislation for t the reorganization of the State Court system. The Board of Governors of the Association strongly urges, however, b that the present language of the bill be anended in two ways:

The first, the Association urges the deletion of the words"and unification" from the title and from Section Two of the bill. Our concern is that the proposed commission not be charged specifically with drafting legislation for "unification" of the Court system, but should be given the opportunity to study all possible aspects of Court modernization and to make its recommendation on the basis of its findings. The Commission may well find that some form of unification is advisable, but we don't want to see the Commission's hands tied by the language of the Statute which creates it.

The Association's Board of Governors would also urge that language be added to Section Two of the bill to further broaden the scope of the Commission's study so as to include consideration of such matters as merit selection of judges, discipline and removal, and all aspects of organization and composition of the judicial system.

You may recall that in the Spring of 1972, a joint committee of the Connecticut Citizens for Judicial Madernization and

the Connecticut Bar Association issued a report on its findings and recommendations. Although the Board of Governors of the Bar Association did not necessarily subscribe to nor approve of all of the methods and plans formulated by the several sub-committees of their joint committee, the Board of Governors did adopt the following as its goals:

1. Adoption of a plan to insure that the most qualified persons are selected as judges and that similar standards be applied for the recommendation of judges for reappointment or elevation.
2. Adoption of a judicial qualifications commission plan to investigate physical or mental incapacity and to investigate complaints with respect to the conduct of judges.
3. The development of a trial Court structure governed by flexibility to meet changing needs.

The Board of Governors at that time called for further independent study by the Association and others toward achieving these goals and the Board now feels that the special commission proposed here can be a major step toward achieving effective and meaningful modernization of our Court system. Such a study would be in line with the view expressed by Chief Justice House in his address to the General Assembly on January 24, to the effect that there "be no rush to effect any change in the basic organization of our Court structure without the fullest examination both of its consequences and of constitution requirements."

I respectfully present to the gentlemen of the Connecticut Bar Association extends to you the accord with the provisions sustained in bill 8269. With reference to that bill 8285 a bill in which the so called no-fault divorce I shall not be repetative in any of the arguments that have been proposed in favor of that bill. May I just point out that the Board of Governors of the Connecticut Bar Association conferred in the recommendation committee by the state bar section on family law. We feel that there is much to be done in the field of family law and particularly as it pertains to dissolutions of marriage. We feel that the bill proposed, takes into consideration the issues of the state concerning the marriage that if there is any possibility that exists for reconciliation that the proposal submitted in the bill dealing with reconciliation especially the merits consideration and implementation. We feel the bill provides adequately for the protection of the children and most sufficiently that our present system of divorce procedure is one that is archaic and where there is a breakdown of the marriage that the divorce should be granted that you are not going to make two people live together whether they want to or not, solely by the grounds for matrimony. It has been pointed out that a number of states

have already adopted the concept of the breakdown of the marriage the reconcilable differences that are increasing the divorce rate must be attributed to an increase in divorce rate as per population and percentages and differences in life style of the general society. I think that in the state of Connecticut, it is high time that we proceed along to modernize our statutes to reach the needs of the people within the state and the Board of Governors of the Bar Association are in favor of of bill 8235. Now may I .....by putting on hat number two and that is as a member of the Board of Governors or former member of the Board of Governors of the Connecticut Civil Liberties Union and first speak in opposition to the bill pertaining to the Death Penalty in bill # 8297. For the introduction of a mandatory death penalty, in any kind of a..... first of all as a member of our society .....I believe in the .....of the 10 commandments and I do not feel that any person should abrogate unto themselves being able to deprive another person the right to life. If it is to be incorporated into any type of legislation I think it would be unconstitutional under our form of justice prudence in that it is removing from judicial .....I feel that is something that must remain within the judiciary and not in the ...in any other bill pertaining to ..... We must be aware that we should not let ourselves be motivated by the emotional reaction which has followed the devices of our society. ....if we who are the legislators .....ought to be react emotion in this concept .....acting in the manner in which I think we were ..... I am not going to repeat the arguments that have been presented in opposition to this bill the committee suggests to you that we think that everybody has been ..... And merely because we say .....some emotional reaction to some offense which perhaps.....that it is just a matter of time when someone else may this type of an offense is horrifying and .....I am against any death penalty as certainly contained in bill 8297. Solely as a member of the community, as a lawyer who has been practicing for more years than he cares to remember and who has been both a practicing attorney and .....court who as defense counsel strongly urge the adoption of some form of bill that is going to create a criminal justice .....My chief concern is that we have a centralized system. You talk a lot about law and order now I talk more about law and justice because you .....you can do a great many things in that concept. We are a nation of justice under law that is the concept which .....I feel certainly that with a centralized Chief States Attorney with adequate .....it would also add to the administration of justice the disposition of our backlog of cases . But more importantly, I feel that we need full time .....we need full time .....we need full time prosecutors. I can remember very vividly it had been six months after our .....1961 the prosecuting attorney of ... at an executive committee meeting for judges and chief prosecutors I strongly urged at that time that the prosecuting

attorneys be a full time employee .....and that he have some assistance that he required even if those were to be on a part time basis. The ideal situation in my opinion is that anyone who is engaged in the administration of criminal justice not be involved in civil ..... Whether we like it or not, the concepts that the attorney dealing with the prosecutor .....in three.....With a prosecutor .....and as objectively as he may try to be, in the representation of his client, he will have in the back of his mind that the moral or late that afternoon he is going to be dealing with that same attorney in a civil matter in which he is going to want certain actions or reactions from counsel who is suppose to be in that other ..... More importantly the fact is that you can do fine the prosecutor or the States Attorney available to you. I do not want to sight examples because someone might be able to note to whom I refer. But the difficulty is not ..... or a state defendent ....being able to sit down and adequately and amply, discussing the case ..... to go into the environmental back ground of a client I do not know what the recommendation of sentence might be not just.....either in the court or where ever his office may be. I submit to you, Mr. Chairman, that the department of justice will not only facilitate the ..... but it will also facilitate or give greater opportunity to the prosecuting attorney .....so that this law and order that we adhere to .....safety that we see to have in our cities and state can be accomplished in a durable fashion. That effective as it should be presented and in many instances .....A young man who was ..... motor vehicle offense they found certain pills upon him and he was charged with a felony with the possession of controlled drugs. My defense was very simply that darvan was not a controlled drug. This is a .....my chief witness for my defense was to be the chief of the drug office of Consumer Protection of the State of Connecticut. ....appeared in court 4 times before it was finally decided and goes through the expense of the states time. I submit to you that where you have a prosecuter working fulltime that investigation could have been conducted and the defendent could have been let go. I submit to you also in reference to bill 8237 the state is ....as far as the state is concerned. The business of going into court and handling the morning doc .....rather than take the time to handle other matters is not one that is conducive to .....The basic argument .....criminal justice as far..... is concerned the appointments ought to be made, I know there is one bill that is under the Attorney General's office. There is another bill is sponsored by the Committee for .....there is another proposal that it be done by the executives of the court just as the States Attorney and the Prosecuting Attorneys are appointed.

I don't like the Grandfather clause, in any of the bills.

That retains the district attorney as part time employees of the state unless they want to give up their civil practice. If they are going to be full time, let them be full time unless they want to give up their civil practice. I don't think that lawyers who who are basic .....are that poor financially, that they have to be continued on the rolls of employees on a part time basis, solely because we let room for the.....etc. My own .....goal is a criminal justice department under the Attorney General office and I would prefer to see as much as possible out of it as possible .....the best qualified men as possible. Whether you go under the Attorney's General Office, whether you go under the .....appointments, or whether you go under the established commission I respectfully submit, that in any event some form of.....justice department should be established and which ever way the appointment permits, whether they be within the .....political sphere of involment ..... I still think that the creation of that kind of a department will benefit the citizens of the state of Connecticut by the better administration of criminal justice in this state. Thank you.

REP. CROUCH: One question. Do you take the position that the commission method judgment then the judges as appointed now?

HYMAN WELENSKI: Yes,

REP. CROUCH: What is your reason, is there any particular reason for that position?

HYMAN WELENSKI: I don't recall now exactly what the proposal was that the judicial modernization. My basic reason is as I recall that, there would be lawyers on that committee that would be also judges on that committee I think there was also some lay people, on the committee or on the commission make the appointments that would see.....etc. I don't recall exactly how because this is one a year or so that I was involved in reporting to the State Bar Association. My personal reaction is that we want to keep politics out of it as much as possible. I don't like to see what is happening in our court system today as everybody running around to their political town chairman, their respective town chairman trying to get the, either Mr. Bailey or Mr. Gaffney the Republican counterpart, then having .....the names submitted to the judiciary committee .....necessarily on merit as on the amount of political strength they are able to exercise, or if you are even able to get your foot in the door. Or if you are able to throw your hat in the ring. It was my concept that the commissions report or commission methods would be one that would be less involved with political appointments. And would be seeking to make solely on the basis of merit and qualifications. That particular concept could be achieved with some other method I

REP. CROUCH: The judges take the position that they are making these appointments non-politically and possibly a comm-

ission would be political.

HYMAN WELENSKI: I recognize that. One of the factors that I may raise is that the, in one or two criminal cases there has been an attack made upon the method of appointments in that the judge makes the appointments to the state senate and they feel that that is not within the separation of power within our constitutional system. I don't know whether or not that has been thrown out on two or three occasions by law. I don't know if it has gone to the Supreme Court yet there is.....that particular situation being challenged as the status quo and is being challenged in the federal courts. What the federal court will do with it I don't know but that is one of the chances we have. I recognize the fact that the judges do not think their appointments are not politically motivated and yet if we take a look at the appointments that have been made to the Circuit Court, .....The Judiciary is well aware of the fact in the in the Circuit Court. I think the Circuit Court in particular, .....it is not that they have not done a good job in the state of Connecticut ..... and the mere fact that the judges have appointed them .....

That does not take away in my opinion .....

REP. CROUCH: Do you think that the judges have too much authority over the public defenders and the prosecuting attorneys to their appointment of them?

HYMAN WELENSKI: NO. If they do have that power may I say that they have not exercised it and judiciously so they have not exercised it.

REP. CROUCH: Speaking on the basis of the division of power between the judiciary and the legislature that you are going on

ANDREA SHECKTER: I am here to speak against the passage of bill 8297 or any other bill that adinstates the death penalty in the state of Connecticut. I think that capitol punishment for as long as I can remember ....by many ople .....I have no argument with anyone .....there is no way to agree on this. I am not here to dissuade anyone that capitol punishment is a form of revenge. Over and over again Americans have claimed that ..... punishment for criminals. In 1870 American Correctional Association advocated " reformation not ....for persons Not until 1959 it was J. Edgar Hoover who..... We feel that punishment by death would change the criminal increase in the United States . I will however, take sides with anyone who claims that the death penalty ..... All of us here are familiar with the FBI. crime commission ,.....we know that crime rises and there is more danger on

city streets then ever before. What many do not see or refuse to see is the successive failure of the death penalty. If it could be proven to you the best way to deter criminal action and lessen crime, I can understand the desire for. Who could not accept it or condone it. the fact remains though, it is quite to the contrary that studies after studies prove that capitol punishment is not going to solve or lessen crime. I have statistics with me it is various studies done by various states a copy of which I would like to give to you. In some states the crime rate is lower with the death penalty. Out of a total of 1187 convicted murders who.....in eight different states ..... we not only become that which.....TAPE IS VERY NOISY AND BAD SOUND. We stop the effect without stopping the cause. If you wish to deter crime ..... Capitol punishment is killing, out right cold blooded killing and whether or not there is a reason, the few who have killed and helps kill another human being .....

EDITH ROYAL: : I am not here tonight as a representative of any organization, but as a private citizen. I am here to voice my opposition to the reinstatement of the death penalty in Connecticut. I am primarily concerned with moral aspects of the question because I believe that the taking of a life is immoral under any circumstances. Moral consideration outweighs any practical advantages of the death penalty if there are any. I do not believe that there are. I do not agree with the fact that there is any evidence that the death penalty deters crime. It remains to be seen. American society prides itself on its high morals and their superiority of others, countries and civilizations. We now have the situation where the legislature is considering a bill which shows the lack of respect for the ~~pre~~entity of human life. It would seem from the recent ruling of the Supreme Court that they are trying to make a feeble attempt at becoming more humanitarian and less revengful. The Connecticut legislature if it reinstates the death penalty, demonstrating its reactionary move back to the principle of an eye for an eye and a tooth for a tooth. The death penalty will remain immoral and inhumane and therefore, has not been shown to have sufficient deterrent that would warrent its reinstatement. The important issue here if the right of the state to condemn people to death.

I personally believe that the execution of criminals by the state is no less murder than the murder of an individual by another. How long will the state be allowed to play God to decide when individuals should live and when they should die. There are times when legislators look to their constituents and vote .....their constituents want them to vote. There are other times when questions come up in the legislation and the legislator must look to his conscience. This is one of these times his conscience must be his guiding factor. At stake here whether our leaders are really leaders in the fight for civil liberties, and greater humane

society. So this is the question, when you the members of the Connecticut Legislature again legalize murder, I would like every member of this committee and every member of the legislature to look to their consciences. ....you who have been designated by the state to pull the switch that sends electric current through them. I think it is you who turns on the gas that robs a human being of life. Could you honestly in good conscience say that you are not a murderer? Could you in good conscience say that you are a better man than the man who is deciding has condemned and if you could not pull that switch than how could you pass this legislation. In effect it means that you are ..... because if you pass this legislation, you are responsible for each and every death that results from this law then you would be if you had pulled the switch yourself. I ask you now to search your own consciences to vote against this bill and for the right to live. Thank you very much.

RHODA WAY: I came as an individual to vote against 8297. I did not come prepared to speak. But I have watched this country since I have become a citizen. Trying to evolve in a better penal system to get away from violence and have better understanding of man. I believe since I .... capitol punishment we will be sending things backwards. Thank you.

JANET FULLER: I am from New London, and I am speaking as an individual and as a member of the Quaker Faith. I oppose the bill # 8297. I oppose it on moral grounds.

EDITH FAIRGRAVES: I am opposed to the exception written into bill 8107 and 1647. Proposed by this committee. Any shield law must be a complete shield that the public's right to know is, has to be protected. The pompous comments on weekly newspapers in this area, recently introduced the executive editor of the Day. The editor said that Day reporter has been advised to be prepared to risk going to jail if they guarantee anonymity to their sources. I anticipate that investigative reporting as of that morning shall be a sharp decline in effectiveness and I feel that if the Day reader my rights as a citizen suffer from that situation; the shield limitation written into the committee bill cripple the protection of the news sources to a degree that would seriously effect a free flow of information. I am keenly interested in increasing that flow and not impeding it.

BEATRICE SMITH: I live in West Hartford, I am sorry I could not get to the hearing in Hartford but I was unable to do that. I am here to express my views on bill # 8269 creating a commission to study and draft legislation for the reorganization of the courts. I will mention that I am a Director of the Connecticut Citizens for Judicial Reorganization and my interest is more than slight. I think that bill 8269 the first step in bringing about changes in our court system. I think however, without the present of lay

citizens on that commission, not much change is going to be effective because legislators, lawyers and judges alone are simply not going to rock the boat which sustains them. Experience in other states throughout the country, have found that lay citizens on such a commission can afford to push for real change because their careers are not at stake and because they do not have to fear alienating themselves from their colleagues as indicates with lawyers and judges. I think also that the kind of lay person sitting on that commission is very important. There ought to be a couple of first rate businessmen throughly familiar with modern business administrative methods. There ought to be people who work with ex-convicts or in drug clinics perhaps as counselors. There ought to be a strong representative from both the black community and the Spanish speaking community to ensure interest in establishing a court system in which the law is equally applied to black and white, poor or middle class.

It may be just coincidence that the law seems to be much equalier for the one that is well to do, then it is for the children of poor blacks or Puerticans families. I would also hope, not perhaps as Mr. Welenski does, that it be written into this language but perhaps in other bills, that this commission would be the first of three commissions which I think are long over due in this state. The other two commissions are a commission to process complaints regarding judges because as things stand now the man facing the bench has no where to go to air his grievances. Whether those grievances are unwarented or legitimate reasons. He is powerless in either case. And the third commission would be a commission to select judges on the basis of their qualifications rather then on whom they know in politics. My very young lawyer friend tells that the cast of characters sets the courts tones, determines the quality of justice in that court. My own feeling is that allowing the choice of judges be left to the chance of political patronage is playing Russian Roulette with the publics right to have great men sitting on every bench.

Perhaps the public does not have a right to have good men maybe that is true, in that event, a commission would give it, the public, the privilege .....If we can afford to be careful electing firemen, motor vehicle clerks, and electricians working for the state or federal government, if they are hired to qualify, if they have standards set for them which they must meet then it is incredible there should be no standards set for judges in whose hands lie the destiny of thousands of citizens. I have been told by my lawyer friends, my young lawyer friends, that always talk alot, that many of Governor Meskill's choices of judges particularly in Circuit Courts is nothing short of brilliant and I have seen a couple and they are. But the idea of four years of brilliant appointment followed by four years of unfortunate appointments and then maybe eight years of

fair to dismal appointments maybe some years awful appointments is the result of the use of the patronage system. I believe that with a commission set up to speak up judges and those carefully elected choices, for the Governor's of this state would give us a court system to which the public is served, in which the public is respected, and even, heaven help us, the public is guaranteed its rights. Thank you.

ALLISON HOLDOM: I live in New London. I wish to speak in opposition to bill 8297. I feel that to make a mandatory death sentence at this point very badly backwards when you should be taking a step forwards doing away with the death penalty. I feel punishment for crimes is justifiably necessary on two major grounds once you have taken care of the immediate thing and taken a person out of society by incarcerating him so he can't hurt other people but beyond that punishment is justified only on two grounds one is as a deterrent to future crimes in the same manner as somebody else and secondly it serves to rehabilitate the person. Capitol punishment does neith one of these.

We heard ample testimonytonight and studies can be sited that capitol punishment is not a fact or deterrent to crime. The person who is committing the sort of crime for which the death penalty is given is obviously not thinking about consequences. If he were thinking about consequences, he would not be committing the crime anyway. The second feature, rehabilitation obviously that penalty does not rehabilitate anybody.it even takes away their last chances to ever be made to rectify his mistake if there be one which sometimes there are mistakes. Therefore, it seems to me the only thing left is the death penalty can be set to accomplish is vengeance. I don't believe that vengeance is a legitimate function of any civilized government. I think it is important to realize that the severity of the penalty is not so important a feature as a deterrent as to certain ty.of some penalties. Penalties of any kind are to serve as a deterrent it seems to me that it should be sure and quick and certain that some sort of punishment would follow. I don't think that it has to be as severe necessarily. I think that people who commit crimes when they are thinking enough to even think about them the consequences, have to feel that they will not be caught at all.or that they will be able to beat the rap.

I think that a mandatory death penalty would do just the opposite of what it is claimed that it would do and that is ...against the certainty of any punishment being performed. For the reason often I think the circumstances under which the jury would feel some sympathy with the defendant and would be less likely to be convicted at all if they thought that if the conviction was going to bring a mandatory death penalty. In conclusion I would like to say the death penalty brutalizes us all, every member of society. Taking a life in change for a life, does not prove that the state or society is any better then the criminal who has

committed the crime. It proves only that the state is more powerful. And that is no way to teach our young people as to convince anybody in society that they shouldn't commit the crime only if you try to make them figure that sneakier and better ways of getting away with it. A just government must be founded on rightness and on integrity not simply superior powers. Any sort of society or government in which dependent entirely upon power, for its source of authority, is doomed I think to slow rot at the center. I think that to reaffirm justice based on integrity, fairness of treatment, and equality of treatment for everybody and not simply to increasing the severity of the penalty. The logic which says because crime is increasing for the severity of the penalty, the logic of that argument gives me the chills when someone will go a step farther, to say about hanging why don't we cut off a few ears and noses and fingers while we are at it. I would like to urge you to defeat the bill 8297, and to abolish the death penalty and to turn instead towards constructive means of trying to combat the causes of crime and trying to deal fairly and equally and swiftly with .....and not depend on cruel and unusual punishment to do something which, to accomplish something which in fact they will not accomplish. Thank you.

REP. SULLIVAN: Mrs. Holdom, I am Rep. Sullivan, have you had an opportunity to see H.B. 1651 S.B., excuse me,?

ALLISON HOLDOM: I just looked at it this evening Mr. Sullivan. I had not seen it before that.

REP. SULLIVAN: This is doing away with the death penalty, and requiring a minimal imprisonment of one half of a life expectancy and to stop possibilities of parole with someone convicted of first degree murder. Would you comment on that.

ALLISON HOLDOM: I looked at it with interest. I am not expert enough in the legal ins and outs of things to know whether this is well written and whether it has flaws in it that in a particular case might cause a miscarriage of justice. I think the intent, as I see it, to do away with the death penalty and to try to huddle it in terms of imprisonment is a laudable attempt, whether this particular bill is a good bill to do that I would have to refer it to someone who knows more about the details of it.

ROBERT FROMER: I am present chairman of the Civil Liberties Union New London Chapter, but I will be speaking for my own self and do not represent the chapter at this time. There are several questions. I am personally opposed to the death penalty because it does not prove anything but there are several reasons why I am opposed to it that I would like to go into. I don't know if any of you gentlemen have ever read a book entitled "The Execution of Private Eddie Solgan" I suggest that you get a copy of it at some of the bookstands. It presents a perfect case against the execu-

tion of an individual. This is a military trial during World War II for desertion.

In this country, we have an attitude that if you draft a man to go to war, and takes a gun and he shoots someone in the battlefield we call that war it is o.k. It is o.k. for a man to kill someone he knows something about, because some individual in the government determines that this man should go to war and kill. He sends into war air pilots who get a particular thrill out of running and seeing how to bomb villages or kill someone irrespect of what war it is. But if you take that same individual and you put him on a street, and because of societies inability to help that individual to be a human being, and he kills someone, we call it murder, and goes through the whole process of executing him. It does not make sense. You have to decide. If you look at the history of the Constitution, of the United States you pretty much see that it was written by pretty much by many of the fairly well to do and the reason we set up the Constitution of the United States they set it up with full intentions of preserving as much of the power within the well to do and the rich those were the power at that time. Lets get into another aspect. We talk about justice in our Country here. We get up and ask people to say the pledge of allegiance and all that kind of stuff; there is no such thing in this Country as justice does not exist. It never has existed in this Country. We keep fooling ourselves to the fact that it does exist. It does not exist. It don't exist because we're a human being. We are imperfect. We have to stop thinking of ourselves as being perfect. ....for various reasons greed, power, money what have you but it is usually the well to do that...to commit crimes and get away with it. You take a look at the underworld. There has only been of all the murders in this country that were committed or can be associated with the underworld there is only one man in the underworld who has ever been executed as a member of the underworld and that was lefty Burkhosler and in New York City, and that was because his own people decided to get rid of him and in a nice fashion. If you wanted to make ..... about Myer Lansky.....Several other things about our Court systems here. We have a conflict in this Country in a number of professions that a man should be tried and if he is convicted especially for murder or something of a capitol offense he should be convicted without a reasonable doubt. It isn't of a questionable method. It is of a questionable method because to have people who are selected for a jury who for various reasons do not want to be bothered with sitting through the whole process of a court case who have biased attitudes no matter how much preemptory challenges prosecution may have, still has five people there is no way in this world that you can guarantee getting unbiased people in this court all you have to do is look at a movie that is very well done .....about the verysame instance, the very same type of problem, in which you have people who feel

they have already in their mind tried this person; he is guilty. Not beyond a reasonable doubt, but he is guilty. Sentence him execute him. It has not proved anything. It has not proved a thing. ....area. It is very easy when you can't solve a problem to push it under the carpet and make believe it does not exist. You legislators will have to agree .....that the human mind and the human body is a very complex chemical an exceptionally rare complex chemical. It is effected by the most intimate amount of stimuli. You yourselves know that you get into a rage in a given situation. You yourselves know that you can get pushed to the point of committing murder. You yourself know that there are occasions where you have even said I will kill you or I'll kill someone. One has stopped you from committing murder and permitting someone else from committing murder. Now you consider the possibility something in the chemistry of the human mind is a little alterable then normal in you and man because of his ignorant does not have the capability, does not have the understanding, does not have the money more then nor desires in many instances, to try to alter the chemistry of man so they will not kill. They will not rape. They will not commit crimes. I don't see any money being spent in this .....I see an instance in Trenton State Prison for an entire prison of men there is one psychiatrist. How many psychiatrists are in the state, in this state and how much time do they spend with each of the men. Now you yourself know .....if you were incarcerated in prison what would you do? You may very well do the same thing it is very easy for you to sit here in judgment because you are not here inside of prison. Like I say the human mind is a chemical and man has not done enough research into altering the human mind so that he does not commit these crimes. But it is easier, it is much much easier, to just say well that is a difficult problem we don't know how to handle that our minds are not educated to do it. Maybe in the next century we will be able to do it but right now the easiest solution is to execute him, put him out of misery. It is very simple; it does not prove anything, but it does not work. He must do something else now you must start investigating the mind. What causes people to do certain things.

There can be a lot said about that and you can go on all night about that. I want to get in to another area which I talked to Rep. Sullivan once before and this is a problem throughout. Several of you legislators which are sitting here today probably have lived through prohibition didn't, but I have read enough about it to know a little about it; maybe a little more then the legislators do. You cannot legislate, you cannot doubt people that are hell bent on making money by just legislating them....prison but it does not work they tried to do this during prohibition and it was very unsuccessful .....people were committing crimes as a result of this. It does not stop it. there is only one

way or one what I consider useful way is that you are going to stop the drug problem is that to take the profit motive out of it. If you make it undesirable for someone to sell in the drug business so they cannot make money at it then drugs, the problem of drugs, are going to disappear. Maybe not immediately but they will. Have you legislators studied or looked into the system that is now being used in England? Whether the treatment of drug addicts, the drugs are available to them on a controlled basis. Have you studied this gentlemen? Before you start to pass legislation to put people away in prison. You can put every drug addict in this country away in prison and there.....be made you are going to find someone who is going to find some way, some scheme to sell drugs. Now they in New York City have the Methodone treatment. Now that was supposed to hold addicts. It was a complete failure. But what happens the drug addicts will taking these drugs Methodone and selling them on the black market. They were taking these drugs and they were injecting them into themselves to get high. So a chemical company came up with a formula whereby they cannot inject this into their bodies; they do not get a high by any possible way of taking it so the profit motive is now removed from the drug. It is no longer a way for drug addicts to make money. You either have to come up with systems that you have to beat the criminal at or his game. You have to take the profit motive out of criminality. The federal government, the state government because of their own corruptness, because of their own involvement in many instances with these drug dealers have not been successful in solving the drug problem.

You can

REP. CROUCH: Will you kindly summarize your remarks as much as you can I have two more speakers here and the committee wants to hear them.

ROBERT FROMER: The thing is the gentlemen are doing a good job of having to have public hearings but the question is when you go back to your legislative offices is if you really listen to what the people really have to say. He institutes more than common sense and plays politics. He does the arm twisting and calls the shots as to what kind of laws are to be passed and what kind of laws are not going to be passed. It seems that he has an awful lot of power because of his own personal interest as to what laws are going to be passed and you gentlemen just don't seem to do anything about it. Thank you.

REP. CROUCH: I think your remarks are a little bit prejudiced as there are many things that we passed that the Governor vetoed and many things that we don't go for that the Governor goes for it is a question of division of powers in the legislature and the executive. But it has to be ironed out so as to have a state that operates one way or another.

BETTY SHIELDS: I am from New London I speak against Committee bill 8297. I represent the New London Meeting of the New London Society. We have the same concern that all of you have in regard to the alarming violence that seems to be surrounding us today, and we feel very strongly that capitol punishment is a panic reaction. The panic is understandable but the death penalty have never produced a decline in crime rates which is the goal of everyone in this room almost everyone in the state. There are effective methods. We ask you to remember that capitol punishment is a reaction to such station. Understandable but can never be defended as wise or effective. thank you.

REP. CROUCH: The hearing is closed.

7.

**Transcript of Public Hearing, March 1, 1973  
conducted by the  
Judiciary and Governmental Functions Committee**

[This hearing was held at 7:30 p.m.  
in Common Council Chambers, City Hall,  
Bridgeport, Connecticut]

**Connecticut. Joint Standing Committee Hearings.  
Judiciary and Governmental Functions,  
Part 2, 1973 Session,  
pp. 550, 556-560, 569, 570, 576-579, 593-596,  
601-602, 604-605.**

State of Connecticut  
Legislative Bulletin

Thursday, March 1  
JUDICIARY

7:30 P.M. - Legislators

8:00 P.M. - Public - Locations Listed Below

BRIDGEPORT - Common Council Chambers  
City Hall  
Bridgeport, Connecticut

NEW HAVEN - Hall of Records  
200 Orange Street  
New Haven, Connecticut

NEW LONDON - City Council Chambers  
City Hall  
181 State Street  
New London, Connecticut

STAMFORD - Cloonan Junior High School  
West North Street  
Stamford, Connecticut

WATERBURY - Aldermanic Chambers  
City Hall  
2nd Floor  
Grand Street  
Waterbury, Connecticut

SUBJECTS TO BE HEARD

ADOPTION LAW  
COURT REORGANIZATION  
CRIMINAL JUSTICE  
DEATH PENALTY  
DRUGS AND ALCOHOL  
NO-FAULT DIVORCE  
PENALTY FOR DRUNKEN DRIVING  
SHIELD LAW

Friday, March 2  
APPROPRIATIONS

URSDAY

JUDICIARY

1 MARCH, 1973

550

Presiding: Senator Richard S. Scalo

Time: 7:30 p.m.

MEMBERS PRESENT: REPRESENTATIVES: Bingham, Smyth, Crouch, Tedesco,  
Burnham, Freedman, DeMerell, Sullivan, Argazzi,  
Sullivan, Nevas, Fuse, Newman, Meskill,  
Bard, Healey, Liskov, Morris, Willard, Dooley,  
Meiditz, Ritter, Webber, Stolberg, Klebanoff.  
SENATORS: Guidera, Scalo, Costello, Page, Gormley,  
Finney, Petroni, Fauliso, Smith, Murphy,  
Sullivan.

REPRESENTATIVE MORTON: Thank you, Senator. Gentlemen, my name is Margaret Morton, I'm Rep. from the 129th District, in Bridgeport. I would like to speak on Bill 8297, which is AN ACT CONCERNING THE DEATH PENALTY. I would simply like to state, Gentlemen, that I am opposed to the Death Penalty in any form. I do not believe that the death penalty if inacted would be a deterrent to those who would commit murder. I do not believe it would show progress in the great State of Connecticut. I believe it is barbaric and I believe that we should definitely not pass a bill that would throw us back rather than bring us forward. Gentlemen, I hope that you will find it to be your hearts not to give this bill a joint favorable, from your Committee, I hope it will die there. Thank you for allowing me this opportunity.

SENATOR SCALO: Thank you very much, Rep. Morton. Are there any other Legislators who wish to address the Committee at this time? If not rather than wait for the 8:00 portion of the General Public Meeting to open we will continue right now with the list of speakers, for those people who wish to speak there is a list at the table here and they can sign up in order and in the order of their signing they will be called to speak. The First Speaker is Atty. Abraham I Gordon.

ATTY. GORDON: Senators and Representatives, I appear to speak in favor of Bill 8235 being AN ACT CONCERNING THE DISSOLUTION OF MARRIAGE. As an active Attorney, an active practitioner in the Divorce Courts of this State all too often I have seen as have so many of the other attorneys a great deal of effort unnecessarily voiced upon litigation in the domestic situation in an effort to qualify for grounds and in effort to bargain with each other with regard to grounds when in fact the real problem that exists is whether or not there is a true and viable marriage or whether or not that marriage should be dissolved. I speak in favor of the bill as it stands although I do have some thoughts as to certain changes which I will send directly to the Committee. Particularly do I encourage the bill with regard to the section with regard to conciliation. Which is section 6 as you have it in the act at the present time. A number of times so many

THURSDAY

JUDICIARY

1 MARCH, 1973

news media, newspapers, television stations, radio to print the truth. They are on record, Congressional record they have received retractions through a couple of the television news media and they are at present in court against the FCC for lack of enforcing the rules and regulations. I am going to submit this entire file to your Committee for study and I again stress the fact that none of the local news media have earned the right for any kind of protection. Thank you.

SENATOR SCALO: Thank you very much, Mr. Goldstein. Patricia Ginoni.

8297  
MS. GINONI: My name is Patricia Ginoni and I live at 1057 Stratfield Road, Fairfield, Connecticut. I would like to speak concerning the same bill that Margaret Morton spoke on concerning the Death Penalty. I would like to express my very serious and deeply felt opposition to reenactment of the Death Penalty. My opposition is based on 3 basic reasons that I'd like to discuss in the time allotted to me.

First of all the main argument for the death penalty is that it will deter or prevent homicide and serious crimes. I believe that it will not do this, it will not prevent homicide and serious crimes and all of the data and statistics that has been gathered support my claim. For instance statistics from 1970 show that States with the Death Penalty in many cases had a higher homicide rate than States without the death penalty. I could go on with statistics, I sure your well aware of what they are. But just the cite one source that I think will certainly carry a little weight with your body and that is the President's Commission on Law Enforcement and Administration of Justice. This Committee, the conclusion of this Committee was and I quote "It is impossible to say with certainty whether capital punishment significantly reduces the incidents of serious crimes." As I started to talk before about the higher homicide rates in states with the death penalty I think maybe there could be a definite case made for the fact that maybe capital punishment and the official form of violence that it is in many cases triples or contributes to further violence whether it be individual violence or group violence. I would suggest that you keep that in mind.

To expand further on the question of the deterrant value of the death penalty, I would like to say that as reads or examines these bills before us it becomes quite evident that this legislation is very much a retaliatory response to some of the attacks upon the police and other arms of authority and yet when we look at the statistics we find

that a death penalty statute guarantees no special protection to the lives and safety of police officers. Again I quote from the President's Commission of Law Enforcement which states "there is no significant difference between the two kinds of states," those with and without the death penalty, "in the safety of policemen... the existence of the death penalty has no effect on the rate of assaults and murders of prison guards" or correction officials as they like to call themselves.

Furthermore, there has been personal opinion surveys taken among wardens, among prison officials and among policemen as to whether they personally felt safer with a death penalty statute on the books. Although I will not say that the majority were opposed to the death penalty the conclusion was that there was very diverse opinions among this group and the fact that there would be diverse opinion is I think very significant from a group from whom we would expect almost a unanimous response. Wardens, for instance I believe it was the warden at Sing-Sing, even made a statement that he felt that the death penalty and death row pursuit at Sing-Sing had as he put it had a devastating effect on the morale of thousands of prisoners in that facility.

Secondly, I am opposed to the death penalty because I believe as stated in the Supreme Court decision that the death penalty violates the very basic, fundamental, human rights and also the constitutional rights which are guaranteed in the amendments of the Constitution. And I like to say you know this decision *Furman vs. Georgia* in 1972 when the death penalty was declared unconstitutional, you know this was just one isolated decision or even an initial decision that all of a sudden they came along and made this decision and it upset the whole "apple cart". As a matter of fact the decision was very much a climax as a movement a struggle to abolish the death penalty that has been going on for over a 100 years. At the time of the 1972 decision 70 nations and 13 States had already abolished the death penalty completely on their own.

The court found that first of all the death penalty violates the 8th Amendment which prohibits cruel and unusual punishment. To quote from Justice Brennan: "the cruel and unusual punishment clause prohibits infliction of uncivilized and inhuman punishments. The State, even as it punishes, must treat its members with respect for their intrinsic worth as human beings." And additionally, it was found unconstitutional in so far as it violated the 5th and the 14th Amendments which guarantees due process and equal protection.

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Again, I will look at the statistics we find that, and this isn't just, this is for instances Ramsey Clark and his book "Crime in America" really makes the point that the death penalty is most often used against the poor, the uneducated, people without power or influence or pull or money I might add, and also against the very young. And when we talk about very young people we're talking about you know between 14 and 20 years of age. There have been people between these ages who have been executed irrespective of their age.

In statistics from 1962 show that the majority of people executed were under 30. And if we want to look at the record and this is just what's on record the youngest boy ever to be executed was 14 and the youngest girl ever to be executed was 17. Both of these people were executed in the electric chair and both of these people were Black. Furthermore we find the majority of people executed in the United States are Black.

Statistics compiled over a 40 year period indicate that of all the people executed 53 1/2 per cent were Black people and this is at a time when the Black population was something like between 10 and 15 per cent of the general population. Additionally, three times as many Black males are executed for rape as are white males. The rates of execution for other serious crimes, such as robbery, murder, etc. the severity of punishment and the general rate even the rates of apprehension are consistently higher for Blacks than they are for Whites. So on that ground there is certainly quite a case that can be made that violates the equal protection law.

And finally, I'd like to say I feel the death penalty is certainly a very vicious and vengeful response on the part of the State. The State supposedly was set up to act in an intelligent and constructive and resourceful way to the problems of society.....inflicting a penalty like the death penalty rather than contributing to a more intelligent and resourceful answer to crime than very much resort to the law of the jungle itself. I think that are probably are very many people here and people throughout the State who perhaps feel even though the Death Penalty has its shortcomings, in spite of everything else at least they say justice will be done. And I think this a very critical area that I think needs mentioning. You know this belief that we have that if someone causes suffering that they should suffer if someone cause pain that they themselves should be hurt or as you punished and this whole idea of justice and I think what

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talking about here is revenge or getting even is based in a very old philosophy which was "An eye for an eye, and a tooth for a tooth." I'd just like to say that this particular slogan or way of thinking is something like 4,000 years old and if 4000 years ago if that was the most intelligent thing that they could come up with or the best thing that they could come up with well that's one thing but I think today with the human knowledge the advances we've made in the Sciences, especially the Social Sciences the amount that we know about human behavior, about human motivation and about the workings of the human minds. Progress that we have made in medicine I don't think there's any excuse for us to continue to resort to this very simplistic "tit for tat" philosophy that seems to be the undercurrent and the emotional backdrop or support for the death penalty.

I guess I could conclude by saying that, you know I don't think it's asking too much or I don't think it's every difficult for us to begin to develop a more enlightened, a more resourceful and certainly a more intelligent approach to the problem of criminal behavior. Now we can look at areas, other areas like mental illness, even physical illness from such as alcoholism and drug use and if we read history we are aware that in many ways we overcame the ignorance, the superstition and even the fear that was attached to many of these social problems. Somewhere along the line we've had the resourcefulness to develop a certain amount of enlightenment and to go away from a very punitive treatment of what were essentially psychological and physical and medical problems to a more enlightened approach.

I just want to say in concluding that I feel that if society, now I've talked about the other social problems and I feel that if society, what if society is faced with a problem however difficult and complex it may be and however gross and offensive it may be to people that somehow we have to apply, we have to attempt to respond to that problem with the best ... rather than with the worst... For all of these reasons I urge you not to enact the Death Penalty. Thank you.

SENATOR SCALO: I think we have a question.

REPRESENTATIVE FUSE: Thank you, Mrs. Ginoni.

MRS. GINONI: Yes.

REPRESENTATIVE FUSE: You mentioned in your presentation "an intelligat

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resourceful, enlightened alternatives." Could you go a little further?

MS. GINONI: Well, actually, I could probably talk for quite a while on this, but essentially I believe in, as I said I believe there has been very substantial progress made in the Medical and Social Sciences and certainly in areas of psychology and psychiatry but we don't...we just can't be bothered, it's too expensive or too time consuming to apply some of this. I think we believe in a rehabilitative approach and certainly the very best, bring to bear the very best knowledge that was gained in the field of psychiatry and psychology and apply this to the treatment of serious crimes. Just the general type of effort where we try to reeducate, and recast people, give them a chance and give them certain opportunities that they probably have been deprived of all their lives. Really just furnish them with educational, employment and other opportunities of this sort that probably were originally lacking in contributing to the problem in the first place.

REPRESENTATIVE FUSE: Well, I also would like to point out that in your presentation at no time did you mention the victim of some of the crimes. I just wondered at this point what your feel is toward the victims? What compensation could we give them? Aside from the revenge factor which I'm not in agreement but we seem to be over looking the victim and there are victims obviously.

MS. GINONI: Yes. Well, I don't think if someone is seriously harmed or murdered there is nothing that we can do, nothing that the State can do that is going to bring back that life. All we can really do is try to make a society and to cultivate and educate human beings that will in the future will not continue this behavior. As far as compensation I certainly that they should be compensated, for instances if there was property damage done, I think a more appropriate response or penalty would be reimbursing property damage by the person who did it rather than just throwing them in jail or something of that sort. In other words there's very, and there's very, there a lot of very good ideas that have come into existence by various judges, for instance I think I heard on the radio a couple of weeks ago where someone who was convicted of speeding, was forced to stay in a hospital emergency ward of a hospital for maybe like 48 hours and see the destruction and injury that is inflicted on people, you know that possibly be cause or potentially be caused. And there's very innovative things I think that can be worked out rather than just the super-impunitive, you know absolute standard answer for everyone.

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REPRESENTATIVE FREEDMAN: The Committee was given information by the Attorney General of the State that, at our last public hearing in fact, that in his opinion the 6th Amendment rights had to upheld in any case. And of course the Supreme Court has indicated the same thing.

MR. LINDSAY: Well, far be it from me to argue with either but I perhaps am not the proper person to question.

REPRESENTATIVE FREEDMAN: All I'm trying to suggest to you is that the Committee is laboring under some difficulties as far as the legal restrictions that we're facing and that when we are asked to write an absolute shield law I think we're being asked to do something which the Courts would strike down as Unconstitutional. That's the sum and substance of what I'm trying to say. I think there is need for legislation the question is how can we get good legislation which will stand up?

MR. LINDSAY: I respect your situation.

SENATOR SCALO: Thank you very much Mr. Lindsay. Drew Graves or Draves, excuse me.

MR. DRAVES: My name is Drew Draves, and I'm a resident of 54 Rutland Avenue, in Fairfield. I want to speak as two people have spoken priviously on Section 4 of bill 8297, about the death penalty. And I believe that the theme of my statements is going to relate to the protection of victims of the drug traffic. What I want to clarify are some myths about the Drug Traffic, and consequently, some myths that some legislators might have in their minds about what if fact can be a remedy for the chaos that's hit our cities than the chaos of drugs. The majority of drugs that hit the streets in our streets come through a Black Market and that Black Market is controled and monopolized by syndicates. Those syndicates are wealthy, those syndicates have lawyers, simply what I'm saying it's the big "pushers" or the people who can afford fine lawyers and afford all those benefits that would limit their chances of conviction. The New York Times did a few articles recently, I believe it was last week, I was reading they showed the pictures of ten big "pushers" in New York City and these weren't the top echelon, these were big pushers but they weren't the controlers of the Blck Market and precious few of those people if I remember correctly had drug related convictions on their criminal records.

Basically, this law that I have before me or this bill that I have before me Section 4 is a bill that will in all practical respects affect small dealers and poor dealers. In terms of protection of victims there will be no protection

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of victims unless this society commits itself to the destruction of those syndicates which control the Black Market of drugs. We might be able to take one or two smallpushers off the streets put them behind bars for 10 years or kill them but those victims that people are so concerned about will still exist in the future. I think basically this is a vengeful act this is a vengeful bill. I also think it's a scapegoat bill. I think basically what it's political overtone is that with all the destruction in our cities especially our inter-cities is caused by drugs. We're looking for a scapegoat. The cause of drug problem in this country besides the fact that society so structured to create .. environments that make it appealing to take drugs, that the immediate cause of the drug problem in this country are the syndicates and if people believe that the syndicates only deal in heron they are going to have to answer quickly and rationally why the east coast this last year was covered with one specific kind of soft drug or relatively soft drug Quolute. One can only attribute that to a syndicate.

So basically, what I am saying about this bill that it 'll hit the poor "pusher" the "pusher" who is not the perpetrator of the crimes that drugs cause. And basically I think the political overtones of this bill are the political overtones of reaction and I think their the political overtones of racism. This is as we all know that the poor are very often Black and Spanish speaking people in this country. So all I'm doing is urging that bill be stricken and a bill that commits the law enforcement in this country to go after the big "pushers" the syndicate be enacted. Thank you.

SENATOR SCALO: Thank you very much, Mr. Draves. Mr. Salvatore DePiano.

MR. DEPIANO: Senator Scalo and Senator Smyth and other members of the Committee, my name is Salvatore DePiano, and I'm the President of the Bridgeport Bar Association. And I'm very much interested in the ~~Public Act~~ Public Act 8269. AN ACT CREATING A COMMISSION TO STUDY AND DRAFT LEGISLATION FOR THE REORGANIZATION AND UNIFICATION OF COURTS. I'm interested in having this body take in consideration the need for some standardization especially after the facilities in which the various courts hold their sessions. I think probably the best illustration I can give for the needs for some standardization of facilities and I'm talking about the physical plant in which the courts hold their sessions is the situation we have here in Bridgeport and I urge this Committee within their power to help us

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anywhere. I could hardly feel that the job would require all my time as being State's Attorney in Fairfield if the overall Chief of the entire organization was only a parttime man. I think most of the members of the Committee are already aware of that fact. I think this is a good bill. I think it will work reasonably well. I think there is good reason to pass it now. This is now the third session that this has been what I would consider to be a fairly hot item. We have beaten paths, by that I mean the other State's Attorneys, to Hartford the last two years attending Committee hearings on this matter and moving for 5 months wondering just what kind of an organization we were going to be a part of and what its format was going to be.

8297 I think now we have talked the issue almost to death over a period of three years. I think everybody understands what the problems are and will be in the future. I think something should be pass now.. Past committee chairman have declared in the past two sessions that this was an absolute must piece of legislation. The longer you wait I think you begin to kid yourselves and kid the public something that is as necessary as this has not passed now for two years I would have to see a third term go by when this piece of legislation which I think is necessary would not be passed again because about the third, fourth, or fifth time it comes around it becomes rather difficult to drum up the, your enthusiasm for the bill or convince the public that it is as necessary as you claim when three years have gone by and it's still not there and as far as I know nothing has changed that much from the first time the bill was proposed.

With reference to the Death Penalty bill I know everyone will be shocked if I did not speak in favor of the death penalties and I won't shock anybody. I am generally in favor of the death penalty bill, possibly for different reasons than other people would have. I think one of the real difficult to any kind of death penalty bill is just what types of crime include within it. There has been an effort made in this bill to include eight or nine different types of homicides. I can tell you that that bill was again drafted by the State's Attorney and if is essentially a copy of a bill that was proposed in Pennsylvania by the District Attorney of Philadelphia, one Arnold Spector. I think the awful shame about this whole subject is that whatever Death Penalty bill you might enact....

On this subject again, I'm terribly troubled with what seems to be happening in many areas of sentencing and that is the turning to what our automatic or manditory sentences

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and this is what this bill provides because apparently this is what everyone seems to gather the Supreme Court said in its decision of last year. We had what I consider to be if you except the fact that a death penalty bill is favored by a majority of people in Connecticut a very rational bill on the books. It had judgment involved in it. It required recommendation by the State as you know the unanimous vote of all twelve jurors in the matter. And although one can give, I think this a purely emotional issue that you first decide whether you're for or against the death penalty in any form and then you can support your position with statistics and books and all that other business. I'm sure I can cite statistics that would counter what a previous speaker has said. It's fine to say that the majority of people executed in the country were Blacks even though they only numbered some 15% of the population. The important statistic is how many or what percentage of the homicides committed were committed by Whites as opposed to Blacks before you can decide whether or not there has been any unfair application of the penalty.

I don't like to look back at what happened a hundred years ago, fifty years ago or twenty years ago, I don't like to look at Alabama or any other State. I like to look at Connecticut because you are passing a law for the State of Connecticut. How has the Death Penalty of recent times been handled in the State of Connecticut? I believe since 1963 or 1965 there has been a provision in the State of Connecticut that a Jury could impose the Death Penalty if it agreed by unanimous verdict. In only one case since even 1963 or 1965 did a jury ever vote the death penalty. It was in a case in Fairfield County some two years ago. And there have been many first degree murder verdicts not only in Fairfield County but in all of the other counties within the State. And in only one case was the death penalty imposed. So one cannot say that we are dealing with a State where people are just made up of a bunch of blood thirsty people who are just out to be vengeful in all cases of homicide.

I myself have been involved in several homicide cases, many of which have ended in first degree murder convictions. And in only one case in my experience did I ask for the imposition of the death penalty and it was in that case that the jury came back with the imposition of the death penalty. I thought then and I still think now that that was the proper penalty. Since 1963 I believe or again there have only been three people who in the entire State of Connecticut who have been sentenced to the death penalty

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one by the jury and two by a court. One was the shooting of a police officer in Hartford, one was a multiple slaying in New Haven and the Fairfield County case of two years ago. So I don't think anyone can statistically say that we are living in a State where prosecutors or the juries who they are tried are blood thirsty or just vengeful. The law's on the books it is an available penalty and I think it has been very selectively used.

Now those who opposed to it in any manner obviously would not be convinced in anyway by what I have said. In fact probably no one is convinced on this subject by what anybody in the opposition says and probably fall into that same category myself. I don't like our present or the proposed death penalty, I don't like any form of sentencing that takes out rational thinking. But I see no alternative for you in order to meet the Constitutional guidelines. Because it does appear from those cases that what they're saying is that you can't have a death penalty imposed where there is any judgment involved where one person who committed the same kind of a crime is subject to it and someone else does not receive it.

It's perfectly "ok" if everybody in that category is executed and I think that is a horrendous situation. There are kinds of homicide even within the eight that are within this classification where after viewing a presentence report and background and all of the other factors that go into the sentencing process, you might very well conclude that the death penalty was the proper penalty. But obviously the great majority that would not be the verdict of a jury. Under this bill it must be. I point out one very practical situation for you and again I'm start off being for the Death Penalty but I see unbelievable problems with this bill.

It is difficult now to select a jury in a homicide case when the State now presents an indictment in any one of the main categories where that jury when it is originally polled or during the.. examination is told that if they bring a verdict of guilty it automatically results in the imposition of the death penalty. We will be forever and a day selection a jury. When they had or when they felt they had a choice that coming back with a first degree verdict still left them the opportunity to deal with the question of penalty, it was never easy to get a jury in a homicide case but it at least took away the real sting and so you could find some people who would sit.

I think that defense attorneys would now say that anybody

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who feels that they would won't to sit on this kind of a jury is automatically a so called hanging jurer and the defense attorneys aren't going to want them by virtue of the very fact that they are willing to sit on such a case knowing full well that by vetoing guilty they automatically impose the death penalty. You see unbelievable problems of jury selection from this day forth if this bill is passed. But you can't go backwards apparently and this is the great difficulty. The old bill in Connecticut worked it was not abused it was rational but apparently we no longer have access to it. We are now attempting to come up with something that the meets Constitutional guidelines but I think what the Supreme Court said that to utilize the Death Penalty without any thinking or without any reason is permissible.

That to attempt to fashion the death penalty to the appropriate crime for the appropriate criminal that is unconstitutional. If you use no rationalization whatsoever that's perfectly alright. I think it's just a sad state of affairs that we've gotten ourselves to this point in the whole area of the death penalty. Because I could find myself much easier supporting the old former of bill for which maintenance in the fire of the, those who oppose Capital Punishment than I can in this bill. Although I am still for "Capital Punishment" I find it much more difficult for me to defend my position with what we are now face with as opposed to what we had been faced with in the past. Thank you.

SENATOR SCALO: Thank you very much. Atty Andrew Liskov.

ATTY LISKOV: Senator Scalo, Senator Smyth, members of the Committee, my name is Andrew Liskov, Chief Public Defenders, Second Circuit Court, Bridgeport. I'm going to be brief in my comments, I just want to first comment on what Atty. DePiano talked about in the conditions at Circuit Court in Bridgeport. I worked in Circuit Court of Bridgeport and I echo his comments that it is quite unbearable, it is a disgrace to practice there. I think it's a disgrace for the public to be a part of any type of procedure that involved cases in the Circuit Court. My only question was originally when the thought came up to switch from the Circuit Court to Golden Hills Street as to why perhaps it was considered, I don't know, I've never heard any discussion about it, but why the Circuit Court wasn't considered in the new Court House downtown in Bridgeport.

It seems to me that if you're going to put up a structure in Bridgeport of the great cost that it does cost and you did need a new Superior Court, why you couldn't add

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you prefer I didn't on Mr. Rutkin's comment.

SENATOR SCALO: Well I think you most eliquently put your position forward. I think that we could weigh your comments and Mr. Rutkin's unless some other member of the Commission would simply request it. I don't think it's necessary. Thank you very much.

MR. MC ANERNEY: May I just conclude then, Mr. Chairman? In conclusion I would like to point out that the new statute changes the focus from the misconduct of the parties and the concept of matrimonial offense to an inquiry into the true condition of the marriage. That is, is it workable or has it brokendown beyond repair? As to dead marriages it permits dissolution with a minimum of bitterness, distress, and humiliation, and in so doing we feel that is the Section on the Bar Association feels that it will make the process of marriage termination more humane, more realistic, and more civilized.

The new statute is not an attempt to establish easy divorce in Connecticut, for it clearly recognises the interest of the State in preserving viable marriages and in protecting the family unit. Rather the Statute seeks to provide a more civilized and .... procedure for terminating those marriages that are broken beyond repair. It recognises the dignity of the individual and his right to privacy as well as the need for greater protection of the interest of the minor children. It is the Committees hope that if this statute is excepted by the Legislature it maybe a means of restoring dignity and respect to the divorce courts. Thank you, Gentlemen.

SENATOR SCALO: Thank you, Mr. Mc Anerney. Mr. Herbert J. Bundocks. Oh, Bundock excuse me.

MR. BUNDOCK: Thank you, Mr. Chairman, and members of the Committee. My name is Herbert J. Bundock and my friend Senator Scalo knows it and I've enjoyed working under your tutilage in the public defenders office and I might say that one of the few defense counsel who has had an acquittal of a first degree murder case and so I, he may be a little biased when he tries to decide whether or not there should be a sentence of death in the case of first degree cases or in capital cases. I'm going to be brief believe me, you can sigh with relief because I understand what you've gone through tonight. Everybody says they're going to be brief and then they go on for about a half an hour or an hour.

But I just want to, I have to say in relation to this bill 8297 I would like to say that Section 3 should not

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be enacted. I think, Mr. Gromley said that and I say it too. Because it will create such a backlog of Appellate work for everybody it will cause the Supreme Court no end of trouble. It will cause the United States Supreme Court no end of trouble and you know we had a case in the office, as Dick knows, and he was convicted of first degree murder and he was sentenced to death and although, Mr. Gormley was good, able very reasonable and logical States Attorney he said that he should have been punished with death, I respectfully disagree, he should not have been sentenced to death. I think the jury came out and they said that they, was there some provision whereby this man could not be released from prison. They didn't want him loose and if you had that provision he would have of course not been sentenced to death.

Now as to the Section 3, it makes the sentence of death mandatory. This is ridiculous, I never heard of it. This bill is supposed to have been proposed by John LeBelle and I think he had the idea in mind that you could not enact the death sentence in Connecticut unless you put this particular provision in the law. That's not so, I happen to have appeared before the Senator Judiciary... They are reforming the Federal Criminal Code, codifying it, and one of the things their concerned with is the sentence of death. I happen to have a communication from Senator McClellan in reference to that in which he gave me a provision which I think should be enacted by your Committee, I think the Legislature should enact this provision if they're going to enact a death penalty at all, a provision at all.

It would meerly be this, 53A-46 provides for the sentencing proceedings in a case where a jury decides, where the defendant is found guilty under the present statute. Leave the statute as it is but just put this in there. Under 53A-46 where the, when a defendant has been found guilty of murder they should be thereupon, there should be further proceedings before the court a jury on the issue of penalty. Such proceedings shall be conducted before the court or jury which from the defendant guilty.

Now all you have to do is add to that Section the one I have in front of me and I'll send a copy to your Committee to Rep. Smyth and Senator Scalo, I presume are the Co-Chairmen of this Committee. I'll send you copies and I'll also amend 53A-46 as I think is should be. Now this standards are set forth in the Federal Code; this is a .. believe me when I tell you that they send millions of dollars, they have spent millions of dollars codifying the Federal

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Provisions, Criminal Provisions and so they have very competent people down there and they've come to the conclusion that these particular provisions should be put in the law and before a death sentence is imposed these factors should be taken into consideration. It's then goes on to state that the following shall be mitigating circumstances in the cases of both murder and treason. Of course we're not interested in treason but they say, "The crime was committed while the offender was under the influence of extreme mental or emotional disturbance.

2. the offender had acted under unusual pressures or under influences or under the domination of another person.
3. At the time of crime the capacity of the offender to appreciate the.. of his conduct or to control his conduct was impaired as a result of mental illness, mental defect or intoxication.
4. The offender was emotionally immature at the time of the crime.
5. The Offender was a accomplice in the crime committed by another person and his participation was relatively minor .
6. The crime was committed under circumstances which the offender believe to provide a law of justification or extenuation for his conduct in which is plausible by ordinary standards of morality and intelligence or
7. The offender has no significant history of prior criminal activity.

And I would add a ninth provision to that which I will put in my letter to you. And that is:

9. That the defendant has confessed his crime and his confession is a substantial factor in his conviction. Now it's ridiculous and the case that I had in which the defendant confesses his crime and after he has been told that he doesn't have to say anything then the police department goes on to get a confession from him in which admits the crime and then on the basis of his confession the jury then convicts him of first degree murder and then hands down the death penalty. This is ridiculous and that's why I'm adding number nine. Number nine as a mitigating circumstances and which the jury should consider in determining whether or not the death penalty should be inflicted.

Now in addition to these mitigating factors there is also aggravating circumstances. Aggravating circumstances in the case of murder which the jury should consider. And then it goes on to list eight other aggravating circumstances and suffice to say that these aggravating circumstances take into consideration that where the victim was a public servant whose was holding the defendant

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another person in official detention. If you murder a policeman, a guard or someone of the circumstance or that capacity this is all taken care of under the aggravating circumstances. Now a jury should be allowed to take those circumstances into consideration both mitigating and aggravating circumstances. Do not enact either one of these bills. I say leave the statute the way it is, I think Mr. Gormley said the same thing. Merely, add this to your sentencing procedure and I think the State of Connecticut will be able to take care of all the types of murder that maybe committed and if they want to give the death penalty then there are certain guidelines that the jury can follow. Now I just want to say that's all I have to say. I'll send a copy of these mitigating and aggravating circumstances to your Committee.

Also, before I close just on the defender bill, I am a firm believer that as lawyers in the Legislature you should be the first ones who should recognise that what you need is mor parttime defenders, more parttime states attorneys and prosecutors. Listen, how do you get started in the practice of law today? This an excellent way to give young lawyers a chance to get started in the practice of law. What we are doing as lawyers is we're putting everybody on the public payroll and forgetting that we have a independent practice of law that we have to preserve, and if you don't have independent lawyers practicing your practice of law is going to go down the drain eventually. Now I'm only one person it makes no difference to me whether you enact this defender bill or not but when you're enacting it keep in mind that you want to preserve the practice of law you're not doing it under this bill.

Now we can say all we want about fulltime prosecutors, fulltime public defenders we know they all have the desire to practice law. Let them do it, let them get a decent salery you're not paying them enough money as it is. Let them be parttime and let them practice because that's what they're doing anyway. And that's all I have to say. Thank you, gentlemen.

SENATOR SCALO: Thank you, Mr. Bundock. Mr. Bober.

MR. BOBER: My name is Joseph Bober, speaking on behalf of Committee bill 8269. Mr. Chairman and members of the Committee when I say I'm going to be brief I'm going to be brief. I support this bill but in Section 1 I would suggest that you might add some representatives of the public. It looks to me like a gild bill from what I see here it will be all either attorneys or judges. So

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simple procedure, it can be done by an affidavit with very little time, very little effort and very little money and expense involved. And that what this bill does. Under the present law, leave out much of what I wanted to talk about, let me give you just a few examples I think it points out the need for this particular bill.

A man died and the only thing he leaves is a bank account with \$1,100 in it, he has got to go to Probate Court Procedure and I think the public's right this is should be unnecessary.

If a man owns stock, he can own a piece of stock that may be worth \$20.00 he's got to go to Probate Court. If he owns a car that's worth over \$2,000 and today that's not a high price for a car, he has to go to Probate Court. And that maybe the only thing he owns, the car, which was worth \$2,000. If he owns a boat, he has to go to Probate Court. What the bill does for any estate, if the estates cumulative value of \$5,000 or under, it sets up an extremely simple, fast, easy, method of disposing of these estates. I think the public has demanded this and I think, well let me just say it's a good bill and it ought to pass. Thank you very much.

SENATOR SCALO: Thank you very much, I appreciate your preciseness and brevity, Mr. Macauley. Frank Denton.

MR. DENTON: My name is Frank Denton, I'm a Clergyman of the United Methodist Church. I would request the privilege to change on the registration sheet the number of the bill I'm going to speak about, it's 8297. I was mixed up on the content of those two bills.

SENATOR SCALO: It's so indicated, Mr. Denton.

MR. DENTON: Thank you. I'd like to speak in opposition to the bill proposing the death penalty. I would attempt to make it brief and maybe make three points.

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One I think that we are dealing here in this proposal with serious crimes. The taking of life and the exploiting of another person. However, I would like to point out what I believe is an important point that is often overlooked and that is that life is often snuffed out in other ways by neglect, by other social forces, for example life of a person in a poverty area maybe ten years less. Also, there are other ways of exploiting people besides selling drugs that may be harmful to the health. Maybe through exploiting an alcoholic or a compulsive gambler. I make these points simply, I know they're unpopular in the stream of this bill but I think we ought not to forget as a community of fellow citizens that it is easy to sometimes scapegoat the sins of many onto one person

or one group. It's easy to try to force our evil collectively and individually onto a single person or a single type.

Secondly, in my understanding there is very little evidence that the death penalty is a deterrent except in the rather trivial or individual person who is put to death. It seems to me at the response to anger and retribution. It is based on what I understand one of the lowest motives possible in our human society and human individuals. No one to be fostered and promoted. I believe it does not increase the respect for life which I think we all would like to see a greater amount of in our communities.

Third, as has already been spoken about by persons more familiar with the law, it strikes me as very strange to put in a sentence of mandatory death penalty, it seems to me to be not wise that good and bad as I understand it and as I see it in cases that I know about are not clear cut cases of good and evil. And that if a jury or if a court happens to decide between execution and freedom often that does not fit the facts of the case. It seem to me rather than supporting this kind of bill we ought to abolish this kind of penalty.

Finally, just a little symbolic comment, I think often this is seen in the public eye as a question about how to treat the non-addicted pusher. I think it's an unfortunate term because it does not describe the type of function that the person that I think is more properly called a dealer. Very few drugs I think are pushed on an unwill recipient, but rather it's more like a dealer and I think the analogy to the non-addicted liquor store owner is more appropriate and I would suggest to you that I do not believe that the way to treat a serious problem of alcoholism in our country is to pass a death penalty for non-addicted alcohol dealers. Thank you.

SENATOR SCALO: Thank you, Mr. Denton. If there is any speaker that whose topic has been covered previously the Committee would appreciate it if when they are called and they did come up they would merely associate themselves with the remarks of a former speaker. The next is Gay E. Schempp.

MRS. SCHEMPP: Remarks not audible.

SENATOR SCALO: Thank you. Margaret Pickett.

MS. PICKETT: Mr. Chairman and members of the Committee, Mrs. Schempp was going to speak about H.B. 5213 and I will be quite brief in the say. Mrs. Gilden referred to that

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SENATOR SCALO: Thank you, sir, we appreciate your making your remarks short. Mr. O'Connell

MR. O'CONNELL: Gentlemen, my name is Peter O'Connell and I practice law with law firm of Coles, O'Connell and Durwin. Mr. Macauley covered beautifully my, why I'm here to support bill 8246. He failed to mention whether in fact he had had ~~any~~ experience in this field. I think perhaps Judge Dworkin proposed this bill because of me. I have a case with him a similar situation of a stock certificate sound by the heirs approximate value of \$200.00 since September through the present date I've been calling the Judge Dworkin who's been very helpful may I add, although I have yet to actually transfer this stock to the heirs. I hope this bill is passed. I'm sure this bill will used in a situation like this where' except for this bill such a piece of paper as a stock certificate would be worthless because of the length of time it takes to effect such a transfer. Thank you.

SENATOR SCALO: I have concluded the list of speakers who have signed up is there anyone who would still like to speak who has not signed. Yes you may, just identify yourself, please when you come to the microphone.

MS. DUGAN: I'm Sarah Dugan, and I'm from 1 Seaside Place, Norwalk. I want to speak on three things very briefly. One is 8297 against the imposition of a bill which would favor the death penalty and I want to speak in favor of an absolute Shield Law for members of the press and I want to speak in favor of some relief from the abominable physical conditions of the Bridgeport Circuit Courts. I didn't know you were here to hear that tonight so I'm adding that one.

SENATOR SCALO: We all agree with you as far as the last one is concerned. We all practice law there and it's pretty much a mess.

MS. DUGAN: Well, those of us who are ordinary citizens who go have an awful time hearing and it's a miserable place to be in. And for the defendents we think it's a terribly degrading situation so we hope that some relief will be forthcoming.

On the other issue I think I have only one thing to add to what's already been said on the imposition of a mandatory death penalty. I concur with this young woman here and the member of the clergy who spoke I think that the imposition of the penalty shows a tremendous disrespect for human life. Needless to say, the disrespect has already

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been shown by the criminal who takes another life but for the State to go ahead and do the same thing is simply reenforcing that disrespect for human life.

There is one other issue on the mandatory death penalty and let me point out, the mandatory death penalty does not eliminate discretion which is one of the reasons for the Supreme Court's decision in Furman vs. Georgia case. The discretionary element is simply shifted from the trial jury to the prosecutors office. Instead of ... to the jury whether to sentence to death or to prison the mandatory death penalty allows the prosecutor to decide whether to indict for a capital crime or for a lesser offense in order to reduce the risk of the juries refusal to convict.

We know that..... it may have been set already. The other issue is on the Shield law and again with other people who have spoken let me speak in favor of Reps. Ratchford and Gosselin's bill 5213. Alright.

SENATOR SCALO: Thank you, we appreciate your comments. Is there anyone else who havenot spoken and wishes to speak. We willnow declare the public hearing closed.

Hearing ended at 11:43 p.m.

8.

**Joint Standing Committee on Judiciary  
Favorable Report  
On Substitute House Bill No. 8297  
“An Act concerning the Death Penalty”  
April 4, 1973**

*140*

Cal. 306

Favorable *public*  
Substitute *act*  
~~Unfavorable~~  
REPORT 73-137

OF THE  
Joint Standing Committee  
ON JUDICIARY

SUBSTITUTE  
On House Bill No. 8297

An Act concerning THE DEATH PENALTY.

Calendar No. 306

STATE OF CONNECTICUT  
SENATE

Accepted R. S. & Trans.  
APR 12 1973

*Robert M. Wilcox*

STATE OF CONNECTICUT  
HOUSE OF REPRESENTATIVES  
APR 4 1973

Tabled for Calendar and Printing

*Luella M. Row*

STATE OF CONNECTICUT  
HOUSE OF REPRESENTATIVES  
APR 11 1973

ACCEPTED

*Luella M. Row*

STATE OF CONNECTICUT  
SENATE  
APR 13 1973

ORDERED FOR CALENDAR

*Robert M. Wilcox*

STATE OF CONNECTICUT,

General Assembly,

January Session, A. D., 1973

The Joint Standing Committee on JUDICIARY

, to whom was referred House Bill No. 8297

entitled "An Act concerning ~~amending~~ THE DEATH PENALTY,"

beg leave to report that they have had the same under consideration, and are of the opinion that it ought not to pass, but recommend the passage of the accompanying substitute and recommend that it be referred to the committee.

All of which is respectfully submitted,

Chairman.

9.

**File No. 291**  
**Substitute House Bill No. 8297**  
**“An Act Concerning the Death Penalty”**  
**April 4, 1973.**

File No. 291

Substitute House Bill No. 8297

CONNECTICUT  
STATE LIBRARY  
LEGISLATIVE REFERENCE  
SECTION

State of Connecticut

# House of Representatives



House of Representatives, April 4, 1973. The Committee on Judiciary reported through Rep. Bingham of the 147th District, Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

## AN ACT CONCERNING THE DEATH PENALTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-45 of the 1969  
2 supplement to the general statutes is repealed and  
3 the following is substituted in lieu thereof: (a)  
4 Murder is punishable as a class A felony unless IT  
5 IS A CAPITAL FELONY AND the death sentence is  
6 imposed as provided by section [53a-46] 4 OF THIS  
7 ACT.

8 (b) [Where the court and the state's attorney  
9 consent, a person indicted for murder may plead  
10 guilty thereto, in which case the court shall  
11 sentence him as for a class A felony.

12 (c) ] If a person indicted for murder waives  
13 his right to a jury trial and elects to be tried  
14 by a court, the court shall be composed of the  
15 judge presiding at the session and two other  
16 judges to be designated by the chief justice of  
17 the supreme court, and such judges, or a majority  
18 of them, shall determine the question of guilt or  
19 innocence and shall, as provided in said section  
20 [53a-46] 4 OF THIS ACT, render judgment and impose  
21 sentence.

22 [(d) ] (c) The court or jury before which any  
23 person indicted for murder is tried may find him

24 guilty of homicide in a lesser degree than that  
25 charged.

26 Sec. 2. (NEW) (a) A person is guilty of  
27 murder when, with intent to cause the death of  
28 another person, he causes the death of such person  
29 or of a third person or causes a suicide by force,  
30 duress or deception; except that in any  
31 prosecution under this subsection, it shall be an  
32 affirmative defense that the defendant acted under  
33 the influence of extreme emotional disturbance for  
34 which there was a reasonable explanation or  
35 excuse, the reasonableness of which is to be  
36 determined from the viewpoint of a person in the  
37 defendant's situation under the circumstances as  
38 the defendant believed them to be, provided  
39 nothing contained in this subsection shall  
40 constitute a defense to a prosecution for, or  
41 preclude a conviction of, manslaughter in the  
42 first degree or any other crime.

43 (b) Evidence that the defendant suffered from  
44 a mental disease, mental defect or other mental  
45 abnormality is admissible, in a prosecution under  
46 subsection (a), on the question of whether the  
47 defendant acted with intent to cause the death of  
48 another person.

49 (c) Murder is punishable as a class A felony  
50 unless it is a capital felony and the death  
51 penalty is imposed as provided by section 4 of  
52 this act.

53 Sec. 3. (NEW) A person is guilty of a  
54 capital felony who is convicted of any of the  
55 following: (1) Murder of a member of the state  
56 police department or of any local police  
57 department, a county detective, a sheriff or  
58 deputy sheriff, a constable who performs criminal  
59 law enforcement duties, a special policeman  
60 appointed under section 29-18 of the 1969  
61 supplement to the general statutes, an official of  
62 the department of correction authorized by the  
63 commissioner of correction to make arrests in a  
64 correctional institution or facility, or of any  
65 fireman, as defined in subsection (10) of section  
66 53a-3 of the 1971 noncumulative supplement to the  
67 general statutes, while such victim was acting  
68 within the scope of his duties; (2) murder  
69 committed by a defendant who is hired to commit  
70 the same for pecuniary gain or murder committed by  
71 one who is hired by the defendant to commit the

72 same for pecuniary gain; (3) murder committed by  
73 one who has previously been convicted of  
74 intentional murder or murder committed in the  
75 course of commission of a felony; (4) murder  
76 committed by one who was, at the time of  
77 commission of the murder, under sentence of life  
78 imprisonment; (5) murder by a kidnapper of a  
79 kidnapped person during the course of the  
80 kidnapping or before such person is able to return  
81 or be returned to safety; (6) the illegal sale,  
82 for gain, of cocaine, heroin or methadone to a  
83 person who dies as a direct result of the use by  
84 him of such cocaine, heroin or methadone, provided  
85 such seller was not, at the time of such sale, a  
86 drug-dependent person.

87 Sec. 4. (NEW) (a) A person shall be subjected  
88 to the penalty of death for a capital felony only  
89 if a hearing is held in accordance with the  
90 provisions of this section.

91 (b) When a defendant is convicted of or  
92 pleads guilty to a capital felony, the judge or  
93 judges who presided at the trial or before whom  
94 the guilty plea was entered shall conduct a  
95 separate hearing to determine the existence or  
96 nonexistence of any of the factors set forth in  
97 subsections (f) and (g) of this section for the  
98 purpose of determining the sentence to be imposed.  
99 Such hearing shall not be held if the state  
100 stipulates that none of the aggravating factors  
101 set forth in subsection (g) of this section exists  
102 or that one or more of the mitigating factors set  
103 forth in subsection (f) of this section exists.  
104 Such hearing shall be conducted (1) before the  
105 jury which determined the defendant's guilt or (2)  
106 before a jury impanelled for the purpose of such  
107 hearing if (A) the defendant was convicted upon a  
108 plea of guilty; (B) the defendant was convicted  
109 after a trial before three judges as provided in  
110 subsection (b) of section 1 of this act; or (C) if  
111 the jury which determined the defendant's guilt  
112 has been discharged by the court for good cause or  
113 (3) before the court, on motion of the defendant  
114 and with the approval of the court and the consent  
115 of the state.

116 (c) In such hearing the court shall disclose  
117 to the defendant or his counsel all material  
118 contained in any presentence report which may have  
119 been prepared. No presentence information

120 withheld from the defendant shall be considered in  
121 determining the existence or nonexistence of any  
122 of the factors set forth in subsection (f) or (g).  
123 Any information relevant to any of the mitigating  
124 factors set forth in subsection (f) may be  
125 presented by either the state or the defendant,  
126 regardless of its admissibility under the rules  
127 governing admission of evidence in trials of  
128 criminal matters, but the admissibility of  
129 information relevant to any of the aggravating  
130 factors set forth in subsection (g) shall be  
131 governed by the rules governing the admission of  
132 evidence in such trials. The state and the  
133 defendant shall be permitted to rebut any  
134 information received at the hearing and shall be  
135 given fair opportunity to present argument as to  
136 the adequacy of the information to establish the  
137 existence of any of the factors set forth in  
138 either of subsections (f) and (g). The burden of  
139 establishing any of the factors set forth in  
140 subsection (g) shall be on the state. The burden  
141 of establishing any of the factors set forth in  
142 subsection (f) shall be on the defendant.

143 (d) The jury or, if there is no jury, the  
144 court shall return a special verdict setting forth  
145 its findings as to the existence of each of the  
146 factors set forth in subsection (f) and subsection  
147 (g).

148 (e) If the jury or, if there is no jury, the  
149 court finds that one or more of the factors set  
150 forth in subsection (g) exists and that none of  
151 the factors set forth in subsection (f) exists,  
152 the court shall sentence the defendant to death.  
153 If the jury or, if there is no jury, the court  
154 finds that none of the factors set forth in  
155 subsection (g) exists or that one or more of the  
156 factors set forth in subsection (f) exist, the  
157 court shall impose the sentence for a class A  
158 felony.

159 (f) The court shall not impose the sentence  
160 of death on the defendant if the jury or, if there  
161 is no jury, the court finds by a special verdict,  
162 as provided in subsection (d), that at the time of  
163 the offense (1) he was under the age of eighteen  
164 or (2) his mental capacity was significantly  
165 impaired or his ability to conform his conduct to  
166 the requirements of law was significantly impaired  
167 but not so impaired in either case as to

168 constitute a defense to prosecution or (3) he was  
169 under unusual and substantial duress, although not  
170 such duress as to constitute a defense to  
171 prosecution or (4) he was criminally liable under  
172 sections 53a-8 and 53a-10 of the 1971  
173 noncumulative supplement to the general statutes  
174 and section 53a-9 of the 1969 supplement to the  
175 general statutes for the offense, which was  
176 committed by another, but his participation in  
177 such offense was relatively minor, although not so  
178 minor as to constitute a defense to prosecution or  
179 (5) he could not reasonably have foreseen that his  
180 conduct in the course of commission of the offense  
181 of which he was convicted would cause, or would  
182 create a grave risk of causing, death to another  
183 person.

184 (g) If no factor set forth in subsection (f)  
185 is present, the court shall impose the sentence of  
186 death on the defendant if the jury or, if there is  
187 no jury, the court finds by a special verdict as  
188 provided in subsection (d) that (1) the defendant  
189 committed the offense during the commission or  
190 attempted commission of, or during the immediate  
191 flight from the commission or attempted commission  
192 of, a felony and he had previously been convicted  
193 of the same felony; or (2) the defendant committed  
194 the offense after having been convicted of two or  
195 more state offenses or two or more federal  
196 offenses or of one or more state offenses and one  
197 or more federal offenses for each of which a  
198 penalty of more than one year imprisonment may be  
199 imposed, which offenses were committed on  
200 different occasions and which involved the  
201 infliction of serious bodily injury upon another  
202 person; or (3) the defendant committed the offense  
203 and in such commission knowingly created a grave  
204 risk of death to another person in addition to the  
205 victim of the offense; or (4) the defendant  
206 committed the offense in an especially heinous,  
207 cruel or depraved manner; or (5) the defendant  
208 procured the commission of the offense by payment,  
209 or promise of payment, of anything of pecuniary  
210 value; or (6) the defendant committed the offense  
211 as consideration for the receipt, or in  
212 expectation of the receipt, of anything of  
213 pecuniary value.

214 Sec. 5. Section 53a-92 of the 1969  
215 supplement to the general statutes is repealed and

216 the following is substituted in lieu thereof: (a)  
217 A person is guilty of kidnapping in the first  
218 degree when he abducts another person and when:  
219 (1) His intent is to compel a third person to pay  
220 or deliver money or property as ransom, or to  
221 engage in other particular conduct or to refrain  
222 from engaging in particular conduct; or (2) he  
223 restrains the person abducted with intent to (A)  
224 inflict physical injury upon him or violate or  
225 abuse him sexually; or (B) accomplish or advance  
226 the commission of a felony; or (C) terrorize him  
227 or a third person; or (D) interfere with the  
228 performance of a government function [or (3) the  
229 person abducted dies during the abduction or  
230 before he is able to return or to be returned to  
231 safety. Such death shall be presumed, in a case  
232 where such person was less than sixteen years old  
233 or an incompetent person at the time of the  
234 abduction, from evidence that his parents,  
235 guardians or other lawful custodians did not see  
236 or hear from him following the termination of the  
237 abduction and prior to trial and received no  
238 reliable information during such period  
239 persuasively indicating that he was alive. In  
240 all other cases, such death shall be presumed from  
241 evidence that a person whom the person abducted  
242 would have been extremely likely to visit or  
243 communicate with during the specified period were  
244 he alive and free to do so did not see or hear  
245 from him during such period and received no  
246 reliable information during such period  
247 persuasively indicating that he was alive].

248 (b) Kidnapping in the first degree is  
249 punishable as a class A felony [unless the death  
250 sentence is imposed as provided by section 53a-46.  
251 When the court and the state's attorney consent, a  
252 person indicted for kidnapping in the first degree  
253 may plead guilty thereto, in which case the court  
254 shall sentence him as for a class A felony].

255 Sec. 6. Section 53a-25 of the 1969  
256 supplement to the general statutes is repealed and  
257 the following is substituted in lieu thereof: (a)  
258 Any offense for which a person may be sentenced to  
259 a term of imprisonment in excess of one year is a  
260 felony.

261 (b) Felonies are classified for the purposes  
262 of sentence as follows: (1) Class A, (2) class B,  
263 (3) class C, (4) class D [and], (5) unclassified

264 AND (6) CAPITAL FELONIES FOR WHICH THE SENTENCE OF  
265 DEATH MAY BE IMPOSED AS PROVIDED IN SECTIONS 3 AND  
266 4 OF THIS ACT.

267 (c) The particular classification of each  
268 felony defined in this chapter is expressly  
269 designated in the section defining it. Any  
270 offense defined in any other section of the  
271 general statutes which, by virtue of any expressly  
272 specified sentence, is within the definition set  
273 forth in subsection (a) shall be deemed an  
274 unclassified felony.

275 Sec. 7. Subsection (b) of section 53a-28 of  
276 the 1971 noncumulative supplement to the general  
277 statutes is repealed and the following is  
278 substituted in lieu thereof: Except as provided  
279 in sections 53a-45, [53a-46,] 3 AND 4 OF THIS ACT  
280 AND 53a-92 [and 53a-93], when a person is  
281 convicted of an offense, the court shall impose  
282 one of the following sentences: (1) A term of  
283 imprisonment; or (2) a sentence authorized by  
284 section 18-73 or 18-75; or (3) a fine; or (4) a  
285 term of imprisonment and a fine; or (5) a term of  
286 imprisonment, with the execution of such sentence  
287 of imprisonment suspended, entirely or after a  
288 period set by the court, and a period of probation  
289 or a period of conditional discharge; or (6) a  
290 term of imprisonment, with the execution of such  
291 sentence of imprisonment suspended, entirely or  
292 after a period set by the court, and a fine and a  
293 period of probation, or a period of conditional  
294 discharge; or (7) a fine and a sentence authorized  
295 by section 18-73 or 18-75; or (8) a sentence of  
296 unconditional discharge.

297 Sec. 8. Subsection (b) of section 53a-35 of  
298 the 1971 noncumulative supplement to the general  
299 statutes is repealed and the following is  
300 substituted in lieu thereof: The maximum term of  
301 an indeterminate sentence shall be fixed by the  
302 court and specified in the sentence as follows:  
303 (1) For a class A felony, life imprisonment  
304 [unless a sentence of death is imposed in  
305 accordance with section 53a-46]; (2) for a class B  
306 felony, a term not to exceed twenty years; (3) for  
307 a class C felony, a term not to exceed ten years;  
308 (4) for a class D felony, a term not to exceed  
309 five years; (5) for an unclassified felony, a term  
310 in accordance with the sentence specified in the  
311 section of the general statutes that defines the

312 crime; AND (6) FOR A CAPITAL FELONY, LIFE  
313 IMPRISONMENT UNLESS A SENTENCE OF DEATH IS IMPOSED  
314 IN ACCORDANCE WITH SECTION 4 OF THIS ACT.

315 Sec. 9. Section 53a-55 of the 1969  
316 supplement to the general statutes is repealed and  
317 the following is substituted in lieu thereof: (a)  
318 A person is guilty of manslaughter in the first  
319 degree when: (1) With intent to cause serious  
320 physical injury to another person, he causes the  
321 death of such person or of a third person; or (2)  
322 with intent to cause the death of another person,  
323 he causes the death of such person or of a third  
324 person under circumstances which do not constitute  
325 murder because he acts under the influence of  
326 extreme emotional disturbance, as provided in  
327 [subdivision (1) of] subsection (a) of section  
328 [53a-54] 2 OF THIS ACT, except that the fact that  
329 homicide was committed under the influence of  
330 extreme emotional disturbance constitutes a  
331 mitigating circumstance reducing murder to  
332 manslaughter in the first degree and need not be  
333 proved in any prosecution initiated under this  
334 subsection; or (3) under circumstances evincing an  
335 extreme indifference to human life, he recklessly  
336 engages in conduct which creates a grave risk of  
337 death to another person, and thereby causes the  
338 death of another person.

339 (b) Manslaughter in the first degree is a  
340 class B felony.

341 Sec. 10. Section 19-480a of the 1971  
342 supplement to the general statutes, as amended by  
343 section 25 of number 278 of the public acts of  
344 1972, is repealed and the following is substituted  
345 in lieu thereof: Any person who manufactures,  
346 distributes, sells, prescribes, dispenses,  
347 compounds, transports with the intent to sell or  
348 dispense, possesses with the intent to sell or  
349 dispense, offers, gives or administers to another  
350 person any hallucinogenic substance, amphetamine-  
351 type substance or narcotic substance or more than  
352 one kilogram of a cannabis-type substance, except  
353 as authorized in this chapter, and who is not, at  
354 the time of [his arrest] SUCH ACTION, a drug-  
355 dependent person, for a first offense, shall be  
356 imprisoned not less than ten years nor more than  
357 twenty years; and, for a second offense, shall be  
358 imprisoned not less than fifteen nor more than  
359 thirty years; and for any subsequent offense shall

360 be imprisoned for thirty-five years, PROVIDED, FOR  
361 A SECOND OR SUBSEQUENT CONVICTION OF THE SALE OF  
362 HEROIN, COCAINE OR METHADONE, THE PENALTY SHALL BE  
363 LIFE IMPRISONMENT.

364 Sec. 11. Subdivision (4) of section 1 of  
365 number 278 of the public acts of 1972 is repealed  
366 and the following is substituted in lieu thereof:  
367 "Amphetamine-type [drugs] SUBSTANCES" include  
368 amphetamine, optical isomers thereof, salts of  
369 amphetamine and its isomers, and chemical  
370 compounds which are similar thereto in chemical  
371 structure or which are similar thereto in  
372 physiological effect, and which show a like  
373 potential for abuse, which are controlled  
374 substances under this chapter unless modified.

375 Sec. 12. Subdivision (7) of said section 1  
376 is repealed and the following is substituted in  
377 lieu thereof: "Cannabis-type [drugs] SUBSTANCES"  
378 include all parts of the plant Cannabis sativa L.,  
379 whether growing or not; the seeds thereof; the  
380 resin extracted from any part of such a plant; and  
381 every compound, manufacture, salt, derivative,  
382 mixture or preparation of such plant, its seeds or  
383 resin; but shall not include the mature stalks of  
384 such plant, fiber produced from such stalks, oil  
385 or cake made from the seeds of such plant, any  
386 other compound, manufacture, salt, derivative,  
387 mixture or preparation of such mature stalks,  
388 except the resin extracted therefrom, fiber, oil  
389 or cake, or the sterilized seed of such plant  
390 which is incapable of germination. Included are  
391 cannabion, cannabionol and chemical compounds  
392 which are similar to cannabion or cannabionol in  
393 chemical structure or which are similar thereto in  
394 physiological effect, and which show a like  
395 potential for abuse, which are controlled  
396 substances under this chapter unless modified.

397 Sec. 13. Subsection (23) of said section 1  
398 is repealed and the following is substituted in  
399 lieu thereof: "Hallucinogenic [drugs] SUBSTANCES"  
400 are psychodysleptic substances which assert a  
401 confusional or disorganizing effect upon mental  
402 processes or behavior and mimic acute psychotic  
403 disturbances. Exemplary of such drugs are  
404 mescaline, peyote, psilocyn and d-lysergic acid  
405 diethylamide, which are controlled substances  
406 under this chapter unless modified.

407       Sec. 14. Subsection (30) of said section 1  
408 is repealed and the following is substituted in  
409 lieu thereof: "Narcotic [drug] SUBSTANCE" means  
410 any of the following, whether produced directly or  
411 indirectly by extraction from substances of  
412 vegetable origin, or independently by means of  
413 chemical synthesis, or by a combination of  
414 extraction and chemical synthesis: (A) Morphine  
415 type: (i) Opium and opiate, and any salt,  
416 compound, derivative, or preparation of opium or  
417 opiate which are similar thereto in chemical  
418 structure or which are similar thereto in  
419 physiological effect and which show a like  
420 potential for abuse, which are controlled  
421 substances under this chapter unless modified;  
422 (ii) any salt, compound, isomer, derivative, or  
423 preparation thereof which is chemically equivalent  
424 or identical with any of the substances referred  
425 to in clause (i), but not including the  
426 isoquinoline alkaloids of opium; (iii) opium poppy  
427 and poppy straw; (B) cocaine type, coca leaves and  
428 any salt, compound, derivative or preparation of  
429 coca leaves and any salt, compound, isomer,  
430 derivatives or preparation thereof which is  
431 chemically equivalent or identical with any of  
432 these substances or which are similar thereto in  
433 physiological effect and which show a like  
434 potential for abuse, but not including  
435 decocainized coca leaves or extractions of coca  
436 leaves which do not contain cocaine or ecgonine.  
437       Sec. 15. Sections 53a-46, 53a-54 and 53a-93  
438 of the general statutes are repealed.

**10.**

**Transcript of House floor debate,  
April 11, 1973**

**16 House Proceedings, Pt. 6,  
1973 Session, pp. 2923-3003.**

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THE ASSISTANT CLERK:

Total number voting.....	135
Necessary for passage.....	68
Those voting Yea.....	135
Those voting Nay.....	0
Absent and not voting.....	16

THE SPEAKER:

The joint committee's favorable report is accepted and the bill is PASSED.

THE CLERK:

Page 4 of your calendar, Calendar No. 306, FileNo. 291, substitute for H.B. No. 8297, An Act Concerning the Death Penalty, favorable report of the committee on Judiciary.

MR. BINGHAM (147th):

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

THE SPEAKER:

Question is on acceptance and passage of the joint committee's favorable report.

The Chair would indicate, before the gentleman from the 147th starts, that the Clerk is in possession of thirteen amendments, one by the gentleman from the 22nd and twelve by the gentleman from the 93rd.

MR. BINGHAM (147th):

Yes, Mr. Speaker. Before proceeding in the main debate on the death penalty bill, I would like to outline for the members of this House the provisions of the bill, the general provisions of the bill and then we would proceed to the amendments.

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This death penalty bill provides for a class A felony and a capital felony. Class A felony, the sentence would be life imprisonment under the usual provisions of the penal code of the State of Connecticut. The capital felony would provide for the death penalty in certain specific crimes under certain specific conditions. The crimes provided for are as follows: murder of a state or local policeman, murder committed by the defendant who is hired to commit the murder, murder committed by one who has previously been convicted of intentional murder, murder committed by one who is serving a life sentence, murder by a kidnapper of a kidnapped person during the kidnapping before such person is able to return to safety, illegal sale for gain of cocaine, heroin or methadone to a person who dies as a direct result of such use of cocaine, heroin or methadone.

Now the bill further provides that there are aggravating and mitigating circumstances. The death penalty shall not be imposed if the trier of the fact, whether it be court or jury, finds the defendant was under the age of eighteen years of age, his mental capacity or his ability to conform his conduct to law was specifically impaired, he was under unusual and substantial duress, he was criminally liable for the offense which was committed by another but his participation in the offense was relatively minor; he could not have reasonably foreseen that his conduct during the offense would cause risk of death to another; and if none of those factors exist but the aggravating factors exist, such as the defendant committed the offense during the commission of or during the immediate flight from the commission of a felony, the defendant has already been convicted of at least two state or two federal offenses, the defendant during the commission of the offense knowingly created grave risk of death to another, the crime was done in an especially heinous

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cruel or depraved manner, the defendant procured the commission of the offense djh  
by payment of a promise, the defendant committed the offense for the receipt  
or expectation of receipt of anything of pecuniary value. If there are no  
mitigating circumstances and the aggravating, one of the aggravating circum-  
stances are found, the tryer of the fact must impose the death penalty.

That statute or this bill has been designed by the judiciary com-  
mittee to meet the objections of the death penalty case known as Furman against  
Georgia.

With those brief remarks, Mr. Speaker, I think the ladies and  
gentlemen of the House have an outline of what we intend to enact here today.  
If we may, with your permission, Mr. Speaker, proceed to the amendment.

THE SPEAKER:

The Clerk will please call House Amendment Schedule A.

For what purpose does the gentleman rise?

MR. STOLBERG (93rd):

I'd like to move that this issue be passed retaining it place on  
the calendar.

THE SPEAKER:

Motion by the gentleman to pass retaining the item. Will you  
remark on the motion?

MR. STOLBERG (93rd):

Mr. Speaker, through you, I'd like to pose a question to the  
chairman of the judiciary committee.

The question is: when did this item first appear in our files?

MR. BINGHAM (147th):

Monday, Mr. Speaker.

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MR. STOLBERG (93rd):

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Mr. Speaker, I feel in that the original intent of having matters appear in our files for two days before acting on them has not been met. It appears to me that the first session day which members had an opportunity to examine this bill was yesterday. My feeling is that the intent of the legislature is that a bill appear in our files yesterday and today and the earliest it should properly be acted on would be tomorrow, Mr. Speaker. This is my reason for suggesting it be passed retaining its place on the calendar so it can receive the due consideration warranted during tomorrow's session.

THE SPEAKER:

The Chair would point out to the gentleman from the 93rd that the matter is two starred, it is before us in accordance with our rules. Will you remark on the motion?

MR. BINGHAM (147th):

Yes, Mr. Speaker. I oppose the motion to pass retain.

THE SPEAKER:

Will you remark further. All those in favor of the motion to pass retain this item indicate by saying aye. Those opposed? The motion is LOST.

MR. STOLBERG (93rd):

Mr. Speaker, through you, I'd like to pose a question to the gentleman, I believe, from the 89th.

THE SPEAKER:

The Chair would request the gentleman indicate for what purpose he rises. The Chair is prepared to call House Amendment Schedule A.

MR. STOLBERG (93rd):

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I want to pose a question to the gentleman from the 89th to determine whether the bill is properly before the House. dj

THE SPEAKER:

The Chair would suggest you raise that by a point of order. Would the Clerk please call House Amendment Schedule A.

MR. STOLBERG (93rd):

Point of order, Mr. Speaker.

THE SPEAKER:

Please raise your point.

MR. STOLBERG (93rd):

The point is that my contention is that this bill is not properly before the House, that it requires a substantial appropriation and I would like to ask, through you Mr. Speaker--

THE SPEAKER:

The Chair will rule on your point of order that the bill, in the opinion of the Chair, is properly before us and has met all statutory requirements of our rules and that the point of order is not well taken.

Will the Clerk please call House Amendment Schedule A.

THE CLERK:

House Amendment Schedule A offered by Rep. Pugliese of the 22nd District to H.B. No. 8297, File No. 291.

In section 3, line 86, after "person" strike out the period and add the follow ": (7) murder committed by a person who was, at the time, committing a robbery or burglary while armed."

MR. PUGLIESE (22nd):

Mr. Speaker, I move adoption of the amendment.

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THE SPEAKER: d

Question is on adoption of House Amendment Schedule A. Will you remark?

MR. PUGLIESE (22nd):

Yes, Mr. Speaker, the amendment is offered hopefully to fill what I consider a hole in the bill. I feel that a person who enters either a business or establishment for the purpose of robbery or a person who enters a home for the purpose of burglary and who carries with him in these operations a gun that is loaded and in the course of his robbery or burglary kills a person, this person, I believe, has committed a murder with intent beforehand. I offer this amendment as a deterrent hopefully that these people who do engage in these actions, although we perhaps cannot convince them not to rob, not to burglarize, that perhaps we cannot convince them that they should not carry a gun while doing these actions but perhaps if they know that they are going to get the death penalty for killing someone, we might just convince them that they ought to carry a gun that is not loaded.

THE SPEAKER:

Will you remark on adoption of House Amendment Schedule A?

MR. BINGHAM (147th):

Yes, Mr. Speaker. Mr. Speaker, I oppose the amendment. This bill was drafted very carefully to comply with the death penalty decision and if you read the specific crimes enunciated in the death penalty or calling for the capital felony, they fall into a category which has been defined by the Furman case as especially heinous and cruel crimes. Now I admit, Mr. Speaker, that any killing might well be considered a heinous and cruel crime. As to the far end of one scale we could say that the killing

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by a husband in a lover's quarrel would be probably the least heinous of crimes although many would say that is a heinous crime which should be paid for by the death penalty. On the other end of the scale, we have probably the most heinous crime known to man is the crime of the killing of a person for gain commonly known as the hit and if some person pays a thousand dollars to a hired killer, that, in my opinion, would be at the other end of the scale. I admit that we are drawing a line and in drawing that line, we included the crime suggested by Rep. Pugliese. However, it is my opinion and it is the opinion of the Attorney General's Office of the United States that the exclusion or the inclusion of the crime enunciated by Rep. Pugliese would render this bill unconstitutional. Rather than risk an unconstitutional bill, Mr. Speaker, although that crime is a particularly heinous crime, I oppose this amendment as the Judiciary Committee and I myself wish to enact a death penalty bill which is constitutional. Necessarily, we must read every opinion all of the opinions of the justices to determine whether the bill is going to be held constitutional or not in an appeal and necessarily there will be an appeal if a conviction and the death penalty has been meted out. IT is my opinion that this particular amendment would render the bill unconstitutional and, therefore, it should be defeated.

THE SPEAKER:

Will you remark further?

MR. FREEDMAN (135th):

Mr. Speaker, recognizing that the intent behind the motion is a good one, and I respect it, nevertheless I must disassociate myself from it and join the chairman of the judiciary committee in opposing it. There are three main points why I feel this way. First of all, some of the language

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referring to at the time seems to me to be too vague to stand up in a criminal statute. Secondly, the singling out of one crime, such as this a crime of homicide and not including other crimes of homicide in similar situations, would lead us into equal protection problems under the Fourteenth Amendment. Thirdly, Mr. Speaker, I would like to echo what Chairman Bingham said: under *Furman vs. Georgia*, we have constructed what the Judiciary Committee thinks is one of the most delicately balanced bills that has ever been brought to the floor of this House. We have nine separate opinions of the Supreme Court in the *Furman* case to consider. Unfortunately, too many people tended to consider only the first five decisions, the majority decisions, and did not look at the minority decisions. There were at least two and possibly three judges in the minority who indicated that under certain circumstances, they might very well and indeed probably would go over to the majority side and abolish capital punishment. As I said, it's delicately balanced. In the defense of some six homicide cases in my career, I was involved in three which concerned the constitutionality of Connecticut's first degree murder statutes and I think, perhaps I hope, that I have some knowledge in this regard. I believe I've studied every Supreme Court decision regarding this subject quite carefully. My own opinion is that any expansion of this statute to include any other crimes would make it unconstitutional.

Under certain circumstances, as I said, I believe we would lose White from the majority but the Chief Justice, Justice Blackman would certainly go over to the majority decision and what we would end up with is a statute which is truly unconstitutional. The Chief Justice in his opinion repeatedly refers to limitations on capital punishment cases. He continually refers to the most heinous crimes and I would give the House some examples of his lan-

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guage. He said in his dissent, if we were possessed of legislative power, I would restrict the use of capital punishment to a small category of the most heinous crimes. Again he refers to by more narrowly defining the crimes and again, talking about the limiting history of capital punishment, talks about the fact, he says I do not see how this history can be ignored. Again, the legislatures are free to eliminate capital punishment or to carve out limited exceptions to the general abolition.

Mr. Speaker, those who have followed the Chief Justice's career know that he does not use words lightly. He generally speaking means to be taken seriously and in this case, there is no question in my mind but that he does again. There is no doubt in my mind that both he and Justice Blackman and probably Justice Stewart would switch to the majority if we expand the bill and cause it to be declared unconstitutional. Some certainly believe it will happen soon in any event. I would agree it's possible. But clearly, clearly this bill is at present the most I believe we can expect to stand up constitutionally. The original bill was, in fact, an expanded version. I discussed it with one of our finest state's attorneys who felt that it would never be used and would undoubtedly be declared unconstitutional in its then form.

What I would like to urge the members of the House in this particular situation to do would be to support the Chairman of the Judiciary Committee and to do what they can to get out of this House a constitutional bill. I think this is our duty. I would oppose the amendment and urge everyone else to oppose it.

THE SPEAKER:

Would you remark further on House Amendment Schedule A. The

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gentleman from the 22nd for the second time.

MR. PUGLIESE (22nd):

Mr. Speaker, I would like to thank the two gentlemen from the Judiciary Committee for giving the explanation that they have on the amendment. I am in favor of passing a death penalty bill for the State of Connecticut. I would do nothing to jeopardize the constitutionality of that bill. Therefore, I would ask that the amendment be printed in the Journal and I will withdraw the amendment at this time.

THE SPEAKER:

In accordance with the rules, the amendment, House Amendment A, will be printed in the Journal. The gentleman has indicated he desires to withdraw the amendment.

Will the Clerk please call House Amendment Schedule B.

THE CLERK:

House Amendment Schedule B offered by Rep. Stolberg of the 93rd. to substitute H.B. No. 8297, File No. 291.

In section 3, strike out lines 81 to 86 inclusive, and substitute in lieu thereof: "or be returned to safety."

MR. STOLBERG (93rd):

Mr. Speaker, I move acceptance of the amendment.

THE SPEAKER:

Question is on adoption of House Amendment Schedule B. Will you remark?

MR. STOLBERG (93rd):

Mr. Speaker, the intent of this amendment is to remove one of the six basies for utilizing capital punishment. It's one of the six capital

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offenses listed in this bill that has received the most criticism. What this amendment would do would be to remove as a capital crime, and I quote: "the illegal sale for gain of cocain, heroin or methodone to a person who dies as a direct result of the use by him of such cocain, heroin or methadone provided such seller was not at the time of such sale a drug dependent person." Now Mr. Speaker, this is a new crime for which we can electrocute individuals and it's one that causes a great deal of hesitancy and trepidation among the legal minds of this state and the country. I would suggest it is selective and on its face unconstitutional. I would suggest this does not accomplish a goal, that it will not inhibit the sale of heroin, cocain or methadone, the only thing it might indeed do is increase the sale of other dangerous drugs which are separated out from these three items and perhaps contribute to a growing number of deaths from other drugs. It is for this reason that I feel that the bill would be far superior with this one segment removed. The basic argument for this segment, I think, is that the executive of this state feels it would be a good idea. I don't think that argument is a basis for this legislature to act on.

THE SPEAKER:

Question is on adoption of House Amendment Schedule B.

MR. STEVENS (119th):

Mr. Speaker, I oppose the amendment and hope that it is defeated unanimously. If I had my own way, this bill would say the death sentence would be mandatory or any seller of a hard drug like heroin whether it's his first offense or not if he's a non-addict. That's the person who ruins lives and does it for profit. The Judiciary Committee has settled upon the only compromise that I think can pass this legislature and, therefore, I support

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it but to suggest we strike this is in my opinion not a good amendment, not  
in the interest of the people of this state and I certainly hope it goes  
down to defeat it so richly deserves. dj]

THE SPEAKER:

Will you remark further on House Amendment Schedule B?

MRS. RAPOPORT (73rd):

Mr. Speaker, I have a question please to the Chairman of the  
committee.

THE SPEAKER:

Please proceed.

MRS. RAPOPORT (73rd):

On this particular section that has been just spoken about, may  
I ask a question. Let us assume that I, as a seller of heroin, cocaine or  
methodone, sell the said item to an individual. Let us assume that the  
gentleman on my left as another seller of cocaine, heroin or methodone sells  
the said item to the same individual within a very short length of time. Can  
you tell me, sir, in what manner can it be determined that the item that I  
sold him or the item that the gentleman next to me sold him was a direct  
result of his death?

MR. BINGHAM (147th):

That is a question of fact for the court and jury, like any other  
question of fact for the courts and jury.

MRS. RAPOPORT (73rd):

On this portion of the amendment again, on this amendment again,  
it says to a person who dies as a direct result of the use of him of such  
cocaine, heroin or methodone provided such seller was not at the time of such  
sale a drug dependent person. It makes no reference whatsoever, sir, to the

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decision of the judges, juries or so forth, it merely makes a statement that this particular portion of this section is another item under which the death penalty would arise.

MR. BINGHAM (147th):

That is correct.

MRS. RAPOPORT (73rd):

Thank you, sir.

THE SPEAKER:

Will you remark further on adoption of House Amendment Schedule B?

MR. BRANNEN (48th):

Mr. Speaker, I oppose the amendment. It's not with a great deal of delight that I rise to oppose it. However, I would like to pose a couple of questions to Mr. Stolberg, if I might.

Cocain, heroin and methodone are, in fact, three drugs that do kill and there are others. The striking of illegal sale for gain of a non-drug dependent person would far remove all of these drugs regards the death penalty. I ask if you would like to add other materials or just strike the whole portion.

MR. STOLBERG (93rd):

Through you, Mr. Speaker, I think the appropriate action at this time is to strike the whole portion and deal with drugs through the drug laws that are already on the books. I agree with Rep. Brannen on there is serious need for alternation of those. I think the penalties for these drugs and other hard drugs need to be significantly increased with longer prison terms; the penalties for other drugs I think need to be separated out from the hard drugs. If Rep. Brannen would read on in the bill, he'll find that to some

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degree this already occurs in latter portions of the bill where the drug laws are altered and stiffer penalties are offered for some drug offenses. djf

MR. BRANNEN (48th):

Thank you, Mr. Speaker. In answer to the question that was posed, I have read further in the bill and I am aware of the other penalties that are in fact imposed. However, as regards the amendment, it's fairly well known that I proposed a bill here in the legislature that many considered to be political suicide, as a matter of fact I put through four or five bills on drugs, none which in fact had the death penalty in it, it did have life imprisonment. I am sort of teetering a bit on the death penalty, however, I do feel it is justified in certain situations.

Now, as regards the sale and use of drugs, we've heard the term hard drugs and I'm not sure what a hard drug is in fact. However, when an individual does get heroin, methodone or cocain and does in fact take sufficient quantity or to for some a higher percentage of that which they would normally intake into their bloodstream, they do die and they do die rather quickly. The bill does note that an individual who is not drug dependent would be excused from the death of an individual. The amendment would entirely negate the death of any individual which would be caused by a drug pusher. I, therefore, feel that the amendment should die and that more work should be done in this area.

MR. BINGHAM (147th):

Yes, Mr. Speaker, I speak very strongly in favor of this section. The seller, non-addict seller of heroin, cocain or methadone is no less a killer than the killer for hire. He is a killer for hire and we all know it and we've all said it and the newspapers have said it and all the medical

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reports have said it, he's feasting on the bodies of the young children in djl  
the State of Connecticut and he's feasting on their bodies for gain and they  
die, he should receive the death penalty. I strongly urge the passage of this  
section, Mr. Speaker, and I oppose the amendment.

THE SPEAKER:

Will you remark further on adoption of House Amendment Schedule B?

MR. O'LEARY (60th):

Mr. Speaker, through you I have a question to the chairman of the  
Judiciary.

THE SPEAKER:

Please proceed.

MR. O'LEARY (60th):

I notice that the death penalty will be for the non-addicted sale  
of cocaine, heroin or methadone and I'm just wondering why it wouldn't include  
other drugs such as barbiturates, amphetamines and speed.

THE SPEAKER:

Does the gentleman from the 147th care to respond?

MR. BINGHAM (147th):

Yes, Mr. Speaker. We considered that and we picked, in our  
opinion, again we had to draw a line, we picked those drugs which we felt  
would be held constitutional and the worst menace to society at the present  
time. In the event that one or the other may be held unconstitutional, the  
rest of the bill will not be stricken down and that's why we specifically set  
out those three specific drugs.

THE SPEAKER:

Will you remark further on House Amendment Schedule B?

MR. O'LEARY (60th):

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Mr. Speaker, I join with the chairman of the judiciary committee djh

in his loathing of non-addicted pushers and sellers of these drugs. However, I do think that if the section stands as it is presently written, it will tend to push the sales in other areas, such as speed, which is a very dangerous drug, perhaps more dangerous than some of these that are listed under section 6. Thank you.

THE SPEAKER:

Will you remark further on adoption of House Amendment Schedule B? The gentleman from the 93rd for the second time.

MR. STOLBERG (93rd):

Mr. Speaker, I think everyone in this chamber agrees with our distinguished chairman of the judiciary committee about the nature of non-addict sellers of all drugs. It's not the issue at point. The issue at point is whether these people, for whatever reason they have been involved in this nefarious activity, are strapped into a chair and electricity is run through their body and they're killed. That's one way of protecting society. I would suggest, however, long prison sentences and efforts at rehabilitation would be a much more effective way of protecting society in the long run because it would not only separate out the criminals from the society but indeed it would also set up society as a model for all of our citizens to follow. And because, Mr. Speaker, this amendment and several others deal with the issue of life and death, I think its important that this body go on record in expressing itself on these items. I would, therefore, move, Mr. Spaaker, that when the vote on this amendment is taken, it be taken by roll call.

THE SPEAKER:

Question is on a roll call on House Amendment ScheduleB. All those in favor of a roll call indicate by saying aye. The Chair would indicate that

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the necessary 20% have not indicated a desire for a roll call and a roll call  
will not be ordered. Will you remark further on House Amendment Schedule B?  
If not, all those in favor of adoption indicate by saying aye. Those opposed?  
The noes have it and the amendment is LOST.

The Clerk call House Amendment Schedule C.

THE CLERK:

House Amendment Schedule C offered by Rep. Stolberg of the 93rd  
to substitute H.B. No. 8297, File 291.

Add section 16 as follows: This act shall take effect July 1,  
1976.

MR. STOLBERG (93rd):

Mr. Speaker, I move passage of amendment schedule C.

THE SPEAKER:

Question is on adoption of House Amendment Schedule C. Will you  
remark?

MR. STOLBERG (93rd):

Mr. Speaker, this amendment is largely drawn from similar con-  
cepts that have been debated in Congress in terms of establishing a moratorium  
on the death penalty. I think it's very important that we actually gain the  
evidence that's necessary on the deterrent effect of capital punishment be-  
fore leaping into a bill of this nature and I should like, Mr. Speaker, to  
pose a question, through you, to the Chairman of the Judiciary Committee.

THE SPEAKER:

Please state your question.

MR. STOLBERG (93rd):

The question is, could the chairman of judiciary indicate the

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cases that Connecticut has taken to the Supreme Court and the cost to the State of Connecticut of taking those cases. djh

MR. BINGHAM (147th):

I cannot.

THE SPEAKER:

The Chair would indicate to the gentleman that it does not appear to be relevant to House Amendment Schedule C which we are adopting.

MR. STOLBERG (93rd):

A second question which leads from that would be: if indeed this statute, if we were to pass it as its before us, were challenged and went to the Supreme Court, does the Chairman of Judiciary have any idea of how much it would cost the State of Connecticut to defend this action before the Supreme Court?

MR. BINGHAM (147th):

I cannot.

MR. STOLBERG (93rd):

Mr. Speaker, it would then seem a money saving idea, if not a political and moral idea, to enable other states that are currently leaping to return capital punishment to their books, to fight this issue through the Supreme Court. It is my strong opinion and I will reveal discussion of it later when we debate the bill in its entirety that the bill before us is unconstitutional, would be challenged, would have to be defended through the courts and as are decisions on aid to private schools and are decisions on other items such as abortion, the State of Connecticut is basically depleted its treasury to fight out issues which perhaps we can share with other states. The idea of an effective date of July 1, 1976 for this bill would effectively

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establish a three year moratorium on capital punishment in the State of dj  
Connecticut. I would then suggest if we were to legislate as informed repre-  
sentatives, we could compare the capital crime rate over the capital punish-  
ment era with the non-capital punishment era and see indeed if capital punish-  
ment does serve society in any way whatsoever.

Mr. Speaker, again because of the nature of this amendment, because  
I don't feel members of this body should be reluctant to place themselves on  
record and hide from the public, I move that when the vote be taken on the  
amendment, it be taken by roll call.

THE SPEAKER:

Question is on a roll call vote on House Amendment Schedule C.  
All those in favor of a roll call indicate by saying aye. The necessary 20%  
having indicated a desire for a roll call vote, a roll call will be ordered.  
The Clerk please announce an immediate roll call. Question is on adoption  
of House Amendment Schedule C. Will you remark further?

MR. BINGHAM (147th):

Mr. Speaker, I oppose the amendment to change the effective date  
to July 1, 1976. This is a particularly spacious amendment and really not  
worthy of my brother Stolberg. If this bill is a good bill, it should pass  
immediately and become effective immediately as a protection to society, as  
a protection to the people of the State of Connecticut in conformity with the  
constitutional principles of the constitution of the United States. I strongly  
oppose the amendment, Mr. Speaker.

THE SPEAKER:

Will you remark further on adoption of House Amendment Schedule  
C? If not, if all members--

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MR. PUGLIESE (22nd):

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Mr. Speaker, I would oppose the amendment and I would only suggest that by 1976 the makeup of the Supreme Court might be such that we could get a tougher bill passed.

THE SPEAKER:

Will you remark further on House Amendment Schedule C?  
The gentleman from the 93rd for the second time.

MR. STOLBERG (93rd):

I hope then that my good friend, Rep. Pugliese, will join me in voting for the amendment and in anticipation of more sterling Supreme Court appointments.

I should like to argue for a moratorium on capital punishment and would associate myself with the former chairman of the judiciary committee of the United States House of Representatives. I had the privilege last Saturday of having dinner with Emanuel Celler, former Congressman of New York, and I should like to just briefly quote from Rep. Celler's statement to the House of Representatives sub-committee of the committee of the judiciary which dealt with capital punishment. These are excerpts from that statement by Congressman Celler. I quote: Mr. Chairman and distinguished members of the sub-committee, it is my privilege to submit this statement to you in defense of legislation that would suspend or might abolish capital punishment. He then speaks of the measure before the House of Representatives which is similar to my suggestion here, my suggestion would suspend capital punishment for three years, Rep. Celler was suggesting a national two-year suspension. He was discussing House Resolution 8414 and suggested that a two-year suspension would be quite appropriate at this time in America's constitutional history,

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and I would also suggest Connecticut's constitutional history. Rep. Celler pointed out that the last execution in the United States jurisdiction occurred in 1967 and I would parenthetically add that the last execution in Connecticut occurred in 1960. He went on and I quote: for nearly five years the imposition of the ultimate penalty has been stayed pending procedural challenges at the fields. At present, there are nearly 600 condemned prisoners awaiting execution on death rows. This number, I might add, has been reduced significantly by the Supreme Court decision in Furman vs. George which reversed some 120 of those out of hand. Rep. Celler goes on to point out that a sampling of the opinions of constitutional scholars throughout the nation indicates that the enactment of a two-year suspension of the death penalty is well within the constitutional powers of Congress and I would also suggest for this Body, well within the powers and appropriate to the powers of this legislature. Rep. Celler goes on to point out that a second basis for supporting a Congressional stay of executions is the growing view that capital punishment constitutes a cruel and unusual punishment. The court has dealt with this to some degree and I'm sure within the next few years will once and for all resolve that question clearly for this legislature and the others of this nation. Rep. Celler concludes: the view that capital punishment is cruel and unusual within the meaning of the federal constitution is based on three suppositions: first the penalty is cruel and disproportionately severe; second, that it is unusual in that it is rarely imposed and even more rarely carried out so that its imposition is arbitrary and is unfair to the few who must--

MR. BINGHAM (147th):

Point of order, Mr. Speaker.

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THE SPEAKER:

Please state your point.

MR. BINGHAM (147th):

Rep. Stolberg is not germane to the amendment.

THE SPEAKER:

The Chair would request the gentleman to please confine his remarks to House Amendment Schedule C. The Chair is inclined to give the gentleman a great deal of latitude, however, I think he does try the patience at times of all the members of this body.

MR. STOLBERG (93rd):

Mr. Speaker, I'm merely drawing from Congressman Celler, Chairman of the Judiciary Committee of the United States over a long period of time felt that his arguments were germane in asking for a two-year moratorium. I would suggest if those arguments are germane in the United States Congress by the Chairman of the Judiciary Committee of the United States House of Representatives, certainly the last few lines would be germane in this body also. Despite the fact that *Furman vs. George* has changed the matrix for the cruel and unusual argument and is perhaps reinforced it. I think Emanuel Celler's point, and I'll only paraphrase it here rather than continuing to quote, would be that in a two-year moratorium or in a three-year moratorium as I propose in this amendment, we would have time to truly examine the data available and despite time given to this by the judiciary committee, despite the fact that it has been argued over the years in these Chambers, the turnover in this House really means that most of the members here have not had a chance to examine the relevant information. Indeed with the bill only in the file for one day, many of the members here will be voting, following party leadership or voting haphazardly on the matter before us. A moratorium is

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crucial, perhaps the most crucial amendment that we'll have before us today in giving the judiciary committee and giving the State of Connecticut a chance to truly examine this question in the judicious manner it should be examined in and then come back three years from now and enact whatever law is supported by the facts rather than our emotions or what we feel the people may want in the vague or not informed on the facts and our job is to do a better job than any Hartford Times poll or any other polling of our constituents. Our job is not to legislate in terms of 51% opinion of the people of Connecticut but is to legislate from all information at our availability in their best interest. It is for these reasons that I think Amendment C has merit and I would urge its passage by this body.

THE SPEAKER:

Question is on adoption of House Amendment Schedule C.

MRS. MORTON (129th):

Mr. Speaker, I would like to say that I intend to support this amendment. I think it's a good amendment although I shall say here and now that I will fight this bill. I will oppose the bill but I will support this amendment.

MR. WEBBER (92nd):

Mr. Speaker, what is so horrible about the amendment seriously if in fact we did not have an execution in this state since 1960 which is thirteen years, what is so terribly bad about waiting three more years. My goodness, it seems to me the amendment makes a lot of sense; in the interim there might be some Supreme Court decisions that could in fact rule the bill unconstitutional. I don't think it's such a horrible amendment and I think we should support the amendment.

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THE SPEAKER:

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Question is on adoption of House Amendment Schedule C. Are you prepared to vote? All members, please take their seats, staff members come to the well. House Amendment Schedule C offered by the gentleman from the 93rd. The machine will be open. Has everyone voted? The machine will be closed and the Clerk will please take a tally.

THE ASSISTANT CLERK:

Total number voting.....	131
Necessary for adoption.....	66
Those voting Yea.....	41
Those voting Nay.....	90
Absent and not voting.....	20

THE SPEAKER:

The amendment is LOST. Will the Clerk call House D.

THE CLERK:

House Amendment Schedule D offered by Rep. Stolberg of the 93rd.

This is a long amendment.

Strike out everything after the enacting clause and substitute in lieu thereof the following.

MR. STOLBERG (93rd):

Mr. Speaker, this is a long amendment. With the permission of the House, I could summarize it.

THE SPEAKER:

Is there objection to the gentleman summarizing the lengthy amendment? Without objection, please proceed with the summary.

MR. STOLBERG (93rd):

I move the acceptance of Amendment D.

THE SPEAKER:

Question is on adoption of House Amendment Schedule D. Would you

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please summarize. dj

MR. STOLBERG (93rd):

Amendment D basically strikes the bill before us and cleans the statutes--

THE SPEAKER:

Would the House please come to order and listen to the gentleman from the 93rd.

MR. STOLBERG (93rd):

The amendment before us strikes the bill in its fundamental aspects and clears the statutes of issues which Furman vs. Georgia seems to have declared unconstitutional. For the purpose of consideration of Amendment D which would basically eliminate capital punishment from the present statutes of the State of Connecticut, I should like to read briefly from Hugo Bideau in the case against the death penalty. This amendment basically is the alternative to the bill before us and as such is the crucial one. Once the vote is taken on this, I would certainly consider the withdrawal of some other amendments which basically accomplish secondary aspects to this one. I would point out, however, and I'm quoting from Bideau, this is quite important, Mr. Speaker and if you would get the attention of the body, it summarizes what Furman vs. George really does.

THE SPEAKER:

Would the members please give their attention to the gentleman from the 93rd.

MR. STOLBERG (93rd):

I quote: The Supreme Court has in effect outlawed capital punishment in the United States by its decision in Furman vs. Georgia. Because of

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Furman, by the end of 1972, nearly two dozen states had overturned their death penalty statutes and ordered resentencing of persons awaiting execution. This, Mr. Speaker, is basically what would result if Amendment D were to pass in place of the bill. I would point out that Bideau goes on to state that in the immediate aftermath of the court's decision, many commentators made much of the narrowness of the victory and the lack of a firm concensus among the five man majority on the court. This is understandable and we've already heard it today but it's misleading. It obscures, Mr. Speaker, several major points of agreement. Bideau, for example, cites the following points: the majority of the Supreme Court agreed that the death penalty is a cruel and unusual punishment because it is imposed infrequently and under no clear standards. Secondly, the majority of the Supreme Court agreed that the purpose of the death penalty whether it be retribution or deterrents cannot be achieved when it is so rarely and unpredictably used. Number three, the majority of the Supreme Court agreed that one purpose of the Eighth and Fourteenth Amendments is to bar legislatures from imposing punishments like the death penalty which because of the way they are administered, serve no valid social purpose. Number four, all the courts, with the exception of Justice Rehnquist, indicated personal opposition to capital punishment. The next point, all the court again excepting Justice Rehnquist indicated substantial belief that capital sentencing is arbitrary and substantial disbelief that it is uniquely effective in deterring crime. Mr. Speaker, Bideau goes on to point out what I think we can anticipate from the United States Supreme Court, perhaps after long litigation involving the State of Connecticut, perhaps after additional costs to this state in passing another clearly unconstitutional law. It is for this reason that I have proposed Amendment

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D which would conform very clearly and without any doubt with the decision of the United States Supreme Court in Furman vs. Georgia. dj

THE SPEAKER:

Will you remark further on adoption of House Amendment Schedule D?

MR. BINGHAM (147th):

Mr. Speaker, I oppose the amendment. The dissertation on Furman against Georgia, in my opinion, is clearly wrong. It's not the correct interpretation of constitutional law. The case of Furman against Georgia neither sanctions nor condemns capital punishment. The Justices in Furman against Georgia set out certain requirements and certain standards. The majority of the Justices in Furman against Georgia stated that in a proper case, properly drawn, capital punishment would be constitutional and would not require the striking down of such a statute by the Supreme Court. I strongly oppose the amendment.

THE SPEAKER:

Will you remark further?

MR. RATCHFORD (109th):

Mr. Speaker, I support the amendment and view this to be the key vote of the afternoon because it is the only opportunity that any of us will have to say yes or no to a pure form of capital punishment. The bill itself doesn't do that. It recites a number of conditions, conditions under which the taking of a life by the state is justified and I say to you, as difficult as this question is, and it's the type issue on which very few votes will be changed by the debate this afternoon, if you believe in capital punishment or you don't. I am one who happens to concur with the biblical admonition that thou shalt not kill and, therefore, rise to support this amendment.

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Because if we oppose this amendment and approve the bill, what we are saying collectively is, we are prepared to put the State of Connecticut in the killing business and I for one morally, ethically and legally think this is wrong, for it's just as wrong for the state to engage in killing as it is an individual to do so. This amendment lays out the issue exactly for what it should be, capital punishment yes or capital punishment no and I for one say no to capital punishment and will support the amendment.

Modern society over the past several decades throughout the world has moved away from capital punishment. At the time the Supreme Court decision was written, it was pointed out in a survey of the world that 37 states or 37 nations rather had abolished capital punishment and let's listen to some of those on the list: Argentina, Australia, Belgium, Brazil, Great Britain, Canada, Denmark, Finland, West Germany, Israel, Italy, Mexico, New Zealand, Norway, Sweden and the Vatican City State. I think these nations have shown the states in this country have shown there is nothing to be gained by keeping this cruel and barbaric system on our books, a system that's performed in the dark of night behind closed steel doors without only, without any public witnesses except those brought there to bear truth to the fact that indeed capital punishment has been carried out. The only possible justification for capital punishment is whether or not it fact serves as a deterrent. What other justification can there be? Yet every study that has come back has failed to prove that the elimination of capital punishment in any way increases capital crime. Even the nations or the states which have taken a humane step away from this barbaric practice. The studies simply don't bear up the fact that it is a deterrent and if capital punishment is not a deterrent, there is no justification for it. I, for one, do not subscribe to the

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belief or the old thinking that an eye for an eye or a tooth for a tooth is a proper justification for keeping this law on the books. For each and every one of you who would oppose this amendment and say yes to capital punishment, I say to you are you prepared to be executioner because what you are doing in voting for capital punishment and against this amendment is to say collectively that we, the general assembly and through us the State of Connecticut, are prepared to remain among those states which believe that capital punishment is justified, which believe that this barbaric system should be retained and which basically believe that the human life is not preserving. I, for one, am not prepared to be the executioner and I, for one, will vote for the amendment and against capital punishment.

THE SPEAKER:

Will you remark further on House Amendment Schedule D?

MR. BINGHAM (147th):

Yes, Mr. Speaker.

THE SPEAKER:

Second time.

MR. BINGHAM (147th):

Yes, Mr. Speaker. Thank you, Mr. Speaker. This is the crux of the bill as Mr. Ratchford has stated. The central argument in defense of capital punishment is that the first responsibility of the state and thus of the criminal law and thus of this legislature is the protection of the law-abiding and so long as there is a substantial reason to believe that capital punishment serves this function, it should be enacted. Mr. Speaker, and I won't go through the whole list of states, but the following states still retain capital punishment and California returned capital punishment by

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referendum just recently, Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky and so on. This is the will of the people of this state and this is the will of the people of the United States. This amendment should be defeated, Mr. Speaker. djh

THE SPEAKER:

Will you remark further?

MR. BRANNEN (48th):

Mr. Speaker, I stated earlier that I had some difficulty in rising in favor of capital punishment, however, I did speak in its behalf. My particular personal feeling is that I happen to be against it, my constituents happen to be for it. Being an individual, I should vote my own mind and I will.

I have some misgivings in this regard. Mr. Ratchford indicated would we be willing to be the executioner. I respond, we do have executioners presently on the streets of our cities and of our state that have in their own discretion the ability to take a life and until such time as we, as a body, see fit to remove the ability of these individuals to take a life, I feel that we have to be for capital punishment. It is, in fact, a disgrace that we have to take the life of an individual. Many of us have been abhorred by those that have died in Southeast Asia in the past few years. This is a barbaric act. However, why do we not allow our policemen, our law enforcement individuals to have disarming weapons rather than weapons that kill and maim. We do not. We do not move in that area. If a policeman is on the street and one of his cohorts is killed in action, he is wounded and the individual that does this is shot but is not killed, under this amendment the individual would not die. Are we then to urge our policemen to kill in any action just to insure that the

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individual that's shooting at them will not shoot again? I do not believe that that should be in their discretion; that it should be in the discretion of the judge. The bill that is before us makes it very difficult indeed for anyone to be convicted of a capital crime that would involve death and in these few limited situations, I believe it is warranted under our present guise, under our present laws and, therefore, urge defeat of the amendment.

THE SPEAKER:

Will you remark further on House Amendment Schedule D?

MRS. BECK (54th):

Mr. Speaker, I would like to add my voice to those who support this amendment and urge that the State of Connecticut not move toward re-institution of capital punishment. We have to bear in mind that over the last three decades the number of executions for capital punishment have declined. Between 1930 and 1960, there was one execution for every seventy homicides. During the decade 1951 to 1960, nine of ten persons convicted of first degree murder did not get executed. Between 1961 and 1970, we were so much in doubt about what we were doing, that the average time spent under death sentence rose from 14 months to 32.6 months in death row. The reasons for our doubt are that we have increasing ability to identify that there are so many different reasons for crime, reasons of passion which cannot be predetermined and indeed cannot be stopped by capital punishment, reasons of suicidal tendencies which were pointed out in the San Fernando Valley Police Station shootout in September of 1972, reasons of pre-meditated crime and the only alternative to premeditated crime is perhaps not to have people at all. But most certainly one of the most important ways to prevent premeditated crime is certainty of capture and certainty of sentencing and we have been unable to provide either

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of those and in fact have extended the length of time of sentencing during the past two decades. Capital punishment, however, even if accepted on any grounds, and I am not among those who would lay my hand to any man's life, even if it were accepted on other grounds would require that we indeed be certain of what we are doing and who among us is the certain man, who among us can in fact say that justice today in any area is equally applied. And aside from our ability to make that decision which certainly I would not count myself among those able to do, aside from that, I think we had better bear in mind one terribly practical fact of modern life. The President's Commission on Law Enforcement and Administration of Justice recently stated, finally there is evidence that the imposition of the death penalty and the exercise of dispensing power by the court and the executive follow discriminatory patterns. The death sentence is disproportionately imposed and carried out on the poor, the Negro, and the members of unpopular groups. A study of capital cases in Texas from 1924 to 1968 reached the following conclusion: application of the death penalty is unequal. Most of those executed were poor, young and ignorant. Further studies of capital punishment indicate on a state by state basis that in the south a disproportionate number of people executed were black; that in the north, in the New Jersey area, a disproportionate number of the population executed was black; in the United States since 1930, 3859 persons have been executed and of that number, 54% were black. And during those years, the percentage of blacks was 1/11th of the population. In California, a study indicated no evidence of race discrimination whatsoever but in fact showed discrimination against the poor. And it is to the poor that we are addressing ourselves and not to the blacks or any other group.

And I would conclude my position against the death penalty with a

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quote from Warden Lewis E. Laws of Sing-Sing who after all his years of experience in death row, made the following statement: "Not only does capital punishment fail in its justification but no punishment could be invented with so many inherent defects. It is an unequal punishment in the way it is applied to the rich and to the poor. The defendant of wealth and position never goes to the electric chair or to the gallows. Juries do not intentionally favor the rich. The law is theoretically impartial but the defendant with ample means is able to have his case presented with every favorable aspect while the poor defendant often has a lawyer assigned by the court. Sometimes such an assignment is considered part of political patronage, usually the lawyer assigned has had no experience whatever in a capital case. Until we have reached the day of perfection and can even consider such a step, I do not want to count myself again among those who may make one mistake in taking the life of a human being which is an irreparable and unforgivable step.

THE SPEAKER:

Are you prepared to vote on House Amendment Schedule D? The gentleman from the 93rd for the second time.

MR. STOLBERG (93rd):

Mr. Speaker, there are two reasons that could be put forth for our entire system of criminal justice. The first would be to protect society. The second would be to rehabilitate those who transgress upon society. I think it's very clear that with the execution of a human being, the rehabilitation argument no longer exists. This means at this crux in the debate that the one item left is, does capital punishment protect society and we have yet to hear an argument that that is the case.

The distinguished chairman of the Judiciary Committee has said

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if there is any reason to believe that it protects society, we should have it. djh  
Well, I don't agree with that type of reasoning when we're talking about killing human beings, the burden of proof is with those who would strap them into the chairs and execute them. I think this body should hear the arguments how capital punishment protects society. We can examine those countries that have it and who don't. It has not shown to be a deterrent. We could examine those states who have had it, like Connecticut and Rhode Island, which has it over a hundred years. There is no evidence that it's a deterrent. Or we can examine those dozen states or so which have had it and then not had it and then had it again and we see that the crime rate has no correlation with execution. It is not a deterrent. No one can make that case, a reasonable doubt exists and I think that we, because we should know better, commit a crime if we are to try to circumvent the decision of the United States Supreme Court in order to have capital punishment on the books in Connecticut.

Mr. Speaker, it's been pointed out that this amendment is really the crux of the vote today on capital punishment or not because it is, I would respectfully request that when the vote is taken, it be taken by roll call.

THE SPEAKER:

Question is on a roll call vote on House Amendment Schedule D. All those in favor of a roll call, indicate by saying aye. More than 20% having indicated a desire for a roll call, a roll call will be ordered. Will the Clerk please announce it on the outside system. Staff members come to the well.

MR. AVCOLLIE (70th):

Mr. Speaker, in seven years in this House, I never come to a question which perplexes me more, which gives me more difficulty than the

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question of capital punishment. I have voted on two separate occasions in two different ways on this subject and I truly and sincerely come to the floor of this House not knowing how I will vote. I've listened to the debate here and I certainly agree that this amendment is the crux. I will not speak again on the issue because I think it does present it, present the issue to us in all fours and it is the crux of the debate today. djh

It seems to me that the preponderance of evidence is in favor of abolishing capital punishment. I think Rep. Ratchford, Rep. Stolberg have certainly submitted good evidence to the effect that those areas that have capital punishment have not established it as a deterrent to crime and as I look at the file copy, even if I were inclined to vote for the bill, I think I'd have to vote against it because the file copy really separates the crimes to such an extent that one would wonder why, for instance, some of the individuals that will be protected under the bill that's proposed are any more precious than for instance some of our children that might be killed in a number of ways and their murderer would not be subject to capital punishment. I think the bill as presented in the file really is an anomaly. It doesn't hit the crux of the situation; it doesn't really make good sense and I would, therefore, on this occasion, and as I did on the last occasion, go for a continuation of our policy to have a further moratorium and let our national statistics build up and let's take a good look at it. I frankly cannot vote for taking a life in the name of the state. I don't think any good evidence has been presented here, with all due respect to the sincerity of the chairman of the judiciary, no good evidence has been put forth here today that should influence any of us to vote in favor of the bill. I will support the amendment.

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THE SPEAKER:

djt

All members please take their seats. We'll proceed with the vote on House Amendment Schedule D.

MR. WEBBER (92nd):

Mr. Speaker, I am one of those members of the judiciary committee, a committee that I certainly enjoy being a member of, who voted against this bill and will certainly vote against it today. I think the distinguished chairman of the committee, in my opinion, handled the hearings and the executive sessions in exemplary fashion. He gave all of us a chance to state our positions. He was most fair and I have the highest regard for the method in which he handled this very important matter.

Now, you're all shouting vote or not all of you but some of you and yes and I agree, the hour is getting late, maybe we should get to the bill. We must realize and understand that this is an extremely important measure. You're dealing with the life and death of individuals. We can't just brush this off as another piece of legislation. Let's all be heard. Let's all of us make our positions eminently clear.

I might point out, Mr. Speaker, that at our public hearings, those who attended the hearing to talk on this bill outnumbered those who spoke in favor of abolition, outnumbered the proponents or those who feel that the death penalty should be reinstated, outnumbered them by approximately 40 to 1 and I think this can be attested by the record, if you so want it. We've had some very distinguished people attend our hearings, people who are highly respected and recognized in legal circles as expert, experts in the field of criminal law.

Mr. Speaker, I, of course, am opposed to the bill and I would

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point out that the death penalty profoundly influences the trial process and  
I think every lawyer here can agree to that. A defense lawyer must try to  
lessen the chances of his clients being executed and often this involves intro-  
ducing evidence that may call for leniency but also tends to establish the  
guilt of his own client. Often and very often defendants plead guilty to  
crimes of which they are innocent to erradicate the chances of being executed.  
A prosecutor's role is changed when the death penalty exists. He not only has  
to establish guilt but he also may try to show the jury why the defendant  
should be exterminated. There is a greater chance of distortion by the press  
in a trial for a capital crime since the public clamors for information when  
someone's life may be at stake. A dispassionate trial becomes impossible.

Mr. Speaker, I oppose the bill and shall vote for the amendment.

THE SPEAKER:

Are you prepared to vote?

MR. HENNESSEY (28th):

Thank you, Mr. Speaker. I rise in support of the amendment and  
against the imposition of the death penalty, the reimposition. I think that  
we have spent so much time in this country and state being a, reacting to  
things as they come up. We haven't found any information that can justify this  
type of action. When we impose the death penalty, we are not permitting or  
leaving room for a mistake. I would hate, for one, to be in a position of  
deciding whether someone lives or dies and then later on find out that we made  
a mistake. I don't know who could justify that in their own mind. We're  
reacting at the whim of whatever the newspapers put in, the polls, we have an  
obligation to lead and I don't think we're fulfilling that obligation if we  
take action now without any data to really work with. I just hope that the  
people here who will consider the finality of this decision. There is no way...

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that you can change your mind once that button is pushed. Thank you. djt

THE SPEAKER:

Are you prepared to vote? The question is on adoption of House Amendment Schedule D.

MR. NEVAS (136th):

Mr. Speaker, I'm only going to speak once today and I think now is the appropriate time. I'm not going to urge support or defeat of the amendment, I'm only going to explain my own vote. I'm going to vote in favor of the amendment and in doing so, I want the members of this House to understand my position and I think my position is best enunciated and for me it was an agonizing decision. But my position is best enunciated by MR. Justice Blackman in his dissent, and bear in mind that Mr. Justice Blackman was one of the four who dissented in that decision and he was in favor of least he took the position that the states had the right to do it. But in his dissent, he stated his own personal position and I'd like to read it. It's very brief, because it speaks for me.

Cases such as these provide me an excruciating agony of the spirit. I yield to no one in the depths of my distaste, antipathy and indeed abhorance for the death penalty. With all its aspects of physical distress and fear and of moral judgment exercised by finite minds, that distaste is buttressed by a belief that capital punishment serves no useful purpose that can be demonstrated. For me, it violates childhood's training and life's experiences and is not compatible with the philosophical convictions I have been able to develop. It is antagonistic to any sense of reverence for life. Were I a legislator, I would vote against the death penalty for the policy reasons argued by counsel for the respective petitioners expressed and adopted in the several

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opinions filed by the Justices who vote to reverse these convictions.

djt

Thank you, Mr. Speaker.

THE SPEAKER:

All members please take their seats.

MR. POST (62nd):

Mr. Speaker, like Rep. Nevas, I plan only to speak once today and I too think now is the time. From time to time there comes before our General Assembly issues which deal with life itself and this is one. Today is such an occasion. For me, it would be rather easy to vote against the amendment and vote in favor of the bill. I took a poll in my district on this particular issue. More than 1200 people favor capital punishment by written answer to the poll; only 300 people oppose it. IT would be easy for me to hide behind the will of that majority but I don't intend to do that, not in this particular issue. I'm concerned about how people in the district feel and I'm concerned about the attitude that that reflects. For me the greatness of our society is not the will of the majority but the willingness of each of us to protect, not only the majority but the minority as well. Nothing could be worse than mob rule, nothing could be worse than voting on issues such as these merely because they are popular. For me, I think we should be striving for greatness in our society. I don't think we do that in capital punishment. For me, capital punishment demeans us all. I do not intend to vote for capital punishment. I will vote for the amendment and against the bill. Thank you.

THE SPEAKER:

Are you prepared to vote?

MR. CHURCHILL (100th):

Mr. Speaker, there's very little I can add to the remarks of the

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previous speaker. I would like to associate myself with them and those of Mr. Ratchford and Mrs. Beck. Thank you.

MRS. GRISWOLD (98th):

Mr. Speaker, I cannot refrain from rising for one moment to say that I feel very strongly against capital punishment and I do think everything has been said and said very well and I will vote for this amendment.

THE SPEAKER:

Are you prepared to vote? All members please take their seats, staff members come to the well. Question is on adoption of House Amendment Schedule D offered by the gentleman from the 93rd. The machine will be open. Has everyone voted? The machine will be closed and the Clerk will please take a tally.

THE CLERK:

Total number voting.....	133
Necessary for adoption.....	67
Those voting yea.....	57
Those voting nay.....	76
Absent and not voting.....	18

THE SPEAKER:

The amendment is LOST.

The Clerk, please call the next amendment.

THE CLERK:

House Amendment Schedule E offered by Rep. Stolberg of the 93rd.

MR. STOLBERG (93rd):

Mr. Speaker, out of consideration for the body and particularly for the statements made by Rep. Post, Rep. NEvas, I should like at this time to withdraw Amendment E which would have retained the bill but taken capital punishment from it; I should like to withdraw Amendment F which would have

djl

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substituted S.B. No. 1651, a bill sponsored by Sen. Lenge which I presume will djh  
be heard in the Senate and thus perhaps redundant here. I should like, however,  
to move on to Amendment G, if the Clerk would call that and would like to have  
simple voice votes on several succeeding amendments.

THE SPEAKER:

The Clerk please call House Amendment Schedule G, the gentleman  
from the 93rd having withdrawn House Amendments E and F.

THE CLERK:

House Amendment Schedule G by Rep. Stolberg to H.B. No. 8297,  
File No. 291.

In section 3, strike out lines 78 to 81 inclusive and insert in  
lieu thereof "imprisonment; 5, the illegal sale,"

MR. STOLBERG (93rd):

Mr. Speaker, basically what amendment, I move Amendment G.

THE SPEAKER:

Question is on adoption of House Amendment Schedule G. Will you  
remark?

MR. STOLBERG (93rd):

Basically Amendment G takes the crime of murder with kidnapping  
out of the bill. This is a section which was debated at length in the Judiciary  
Committee. The Judiciary Committee did decide to omit the crime of skyjacking  
with murder. It was felt by others and myself that kidnapping is basically  
the same crime but on a smaller scale. There was an inconsistency there. There  
are a number of vulnerabilities in retaining the capital penalty for this  
crime and I would move that Amendment G be accepted.

THE SPEAKER:

Question is on adoption of House Amendment Schedule G. Will you

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remark?

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MR. BINGHAM (147th):

Mr. Speaker, I oppose the amendment and very briefly. Murder by a kidnapper of a kidnapped person is the same as murder for hire. It is a heinous crime and should be treated the same as the other specific crimes enunciated in the bill.

THE SPEAKER:

Will you remark further on House Amendment Schedule G?

MR. SULLIVAN (124th):

Mr. Speaker, I rise to oppose this amendment and very briefly. It seems to me that a situation involving a kidnapping particularly of a defenseless child that the sentence that can be imposed or will be imposed under this is not too good for the kidnapper. I oppose the amendment.

THE SPEAKER:

Will you remark further on House Amendment Schedule G. If not, all those in favor indicate by saying aye. Those opposed? The amendment is LOST.

The Clerk please proceed to the next amendment.

THE CLERK:

House Amendment Schedule H offered by Rep. Stolberg of the 93rd.

In Section 3, line 75, strike out "murder"

Strike out lines 76 and 77 and in line 78 strike out "imprisonment;

5";

In line 81, strike out "6" and insert "5".

MR. STOLBERG (93rd):

Mr. Speaker, at this time the intent of the body seems somewhat

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clear. I think any relevant debate is probably better reserved for the final bill itself. Thus, at this time I should like to withdraw amendment H which would cause capital punishment for the commissioner of a murder while under a life sentence; I should like to withdraw Amendment I which would cause capital punishment for murder committed by a person with a previous conviction for murder; I should like to withdraw Amendment J which would cause capital punishment for someone hired to commit the crime of murder and I would like to withdraw Amendment K which would cause capital punishment to someone who murdered a policeman or fireman in the line of duty.

THE SPEAKER:

The gentleman from the 93rd indicated he wishes to withdraw House Amendments H, I, J and K. We will now proceed with House Amendment Schedule L.

THE CLERK:

House Amendment Schedule L, rather lengthy, do you want to read it, sir?

MR. STOLBERG (93rd):

I'll be glad to summarize.

THE SPEAKER:

The gentleman from the 93rd, without objection, please summarize.

MR. STOLBERG (93rd):

Mr. Speaker, I move the acceptance of Amendment L.

THE SPEAKER:

Question is on acceptance and adoption of House Amendment Schedule L.

MR. STOLBERG (93rd):

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Amendment L would add a section 16 to the bill as written before dj  
us. It would provide that if indeed an execution were to occur in the State of  
Connecticut, that it would be personally performed not by the warden of the  
state prison as is now the law or by a person appointed by him, but by the  
Governor of the State of Connecticut.

MR. SULLIVAN (124th)

Point of order, Mr. Speaker.

THE SPEAKER:

Please state your point.

MR. SULLIVAN (124th):

Mr. Speaker, under section 401 of Mason's manual, an amendment  
which is frivolous or absurd is not in order and I submit to you sir that this  
amendment is frivolous and absurd and is, therefore, not in order.

THE SPEAKER:

The Chair has reviewed the amendment, House Amendment Schedule L,  
the Chair agrees with the gentleman from the 124th that the gentleman from  
the 93rd's amendment is frivolous in nature and would rule it out of order.  
Would the Clerk please call the next amendment.

MR. STOLBERG (93rd):

I appeal the decision of the Chair.

THE SPEAKER:

Would the Clerk please call the next amendment.

MR. STOLBERG (93rd):

Mr. Speaker, I appeal the decision of the Chair in his ruling  
that this amendment is frivolous.

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An appeal which has been duly seconded by a member of the Chamber. The Chair would invite the gentleman to debate the appeal of his ruling if he so desires. djh

MR. STOLBERG (93rd):

Mr. Speaker, the carrying out of an execution in the State of Connecticut is clearly not a judicial nor a legislative function. It is clearly an executive function. This amendment would merely have that function carried out by the executive rather than a delegation thereof. I would suggest that the taking of a human life is nothing to be lightly done and that indeed a state that claims that capital punishment serves some purpose should be not unwilling to have the governor of that state perform that service to the state.

MR. SULLIVAN (124th):

Mr. Speaker, rising in support of the ruling made by the Chair, I think on the face of it that this amendment is frivolous and absurd. I know of no other state within the fifty states of the United States wherein the governor is directed by statute to perform any execution and I see no reason for it. There is no provision for it under the constitution and I submit that it's put forth this afternoon for one purpose only, and that's to embarrass the Chief Executive of this state. I support the ruling of the Chair.

THE SPEAKER:

Question is on the appeal of the ruling of the Chair. If you wish to support the appeal and overturn the decision of the Chair in his ruling on the gentleman's amendment, you should vote in the affirmative. If you wish to sustain the Chair and uphold its ruling, you should vote in the negative. All those in favor of the appeal of the ruling of the Chair indicate by saying aye. Those opposed? The appeal is LOST.

Will the Clerk call the next amendment.

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THE CLERK:

djh

House Amendment Schedule M offered by Rep. Stolberg of the 93rd district.

MR. STOLBERG (93rd):

Mr. Speaker, it's a long amendment. If the Speaker and the House feel it appropriate, I would summarize.

THE SPEAKER:

Is there objection to the gentleman summarizing House Amendment Schedule M? Without objection, please proceed.

MR. STOLBERG (93rd):

I move the acceptance of Schedule M.

THE SPEAKER:

Question is on acceptance and adoption of House Amendment Schedule M. Will you remark?

MR. STOLBERG (93rd):

Assuming that the rationale for the bill itself is that capital punishment has a deterrent effect, Amendment M provides for several points. It provides that the execution will be held at the Connecticut correctional institution at Somers. It further provides that a number of officials that formerly optionally attended the execution shall be present including the Sheriff of the County in which the prisoner was tried and convicted, the board of directors, the physician of the Connecticut correctional institution, clergymen in attendance upon the prisoner and other persons such as the prisoner may designate. It also opens the execution more adequately to the press. The current statutes provide that no more than five newspapers in the state may be in attendance. That is altered into a minimal number and it also provides to meet the deterrent value that is claimed for this bill that such

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execution shall be open to the public and shall be televised for public viewing.

djh

MR. NEVAS (136th):

Point of order, Mr. Speaker. MR. Speaker, I would ask that this amendment be ruled frivolous and improper. I think, Mr. Speaker, that the question of public execution is a barbarism and is so barbaric as to require the Chair to rule this amendment frivolous. The request that these matters be carried over television, as if it were some kind of a show that might even be sponsored commercially, defies imagination and I would urge the Chair to rule this amendment frivolous.

THE SPEAKER:

The Chair has examined the amendment and agrees with the gentleman from the 136th that the gentleman from the 93rd's amendment is frivolous in nature and would rule it out of order.

Does the Clerk have any other amendments in her possession?

THE CLERK:

No further amendments.

MR. KING (21st):

Mr. Speaker, I appeal the ruling of the Chair.

MR. STEVENS (119th):

Point of order, Mr. Speaker. The Speaker had already went on to the Clerk with anew item of business on this bill. The point of order raised by the gentleman in raising an appeal from the Chair is not timely taken.

THE SPEAKER:

The Chair would be inclined to disagree with the Majority Leader. I think the gentleman's motion is timely and there was no other business, there

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is no other amendment in the possession of the Clerk and if the gentleman can obtain a second. djf

(UNIDENTIFIED):

Second.

THE SPEAKER:

Question is on the appeal of the ruling of the Chair to House Amendment Schedule M offered by the gentleman from the 93rd is frivolous in nature. Will you remark?

MR. KING (21st):

Mr. Speaker, I certainly could not support the amendment offered but the issue before us as was the preceding amendment is purely one of frivolity and I hate to see us start a new low here. All these things would take is a vote. I think we're being entirely too sensitive in this House. A great issue is at stake here. We have the time to debate on many occasions issues of much lesser importance. The issues at stake here would have taken a matter of seconds, minutes at the most and I think it's kind of ridiculous if we're going to start resorting to tactics like this, and I think it will lower the dignity of this House. I respectfully suggest that I do not think it's frivolous even though I have no question whatsoever, I would not vote for the amendment.

MR. STOLBERG (93rd):

Mr. Speaker, I was not going to appeal the Speaker's decision on this but in that it has been appealed, I would like to speak to it.

THE SPEAKER:

Please proceed.

MR. STOLBERG (93rd):

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Logically it would seem that if we are passing a law to have capital punishment as a deterrent, to hide it in a closed room, keep as many people from the state of knowing about it as possible is contradictory to that purpose of deterrance. I would suggest, Mr. Speaker, that if we pass this bill today, a step backward in our society, a step backward toward the days of public execution, Connecticut in the past has executed its citizens for idolatry, for blasphamy, for witchcraft, for sodomy, for incest, for rape, kidnapping, bearing false witness, striking a parent, cursing a parent, disobeying a parent, and a number of other crimes. It was a philosophy in the past that punishment should be done publically so that society will learn. Mr. Speaker, I agree with the former speaker who suggested that this amendment was barbaric. This amendment is barbaric because the bill is barbaric. All it does is open up for people to see the barbarism that we would like to perform behind closed doors.

MR. VARIS (90th):

Mr. Chairman, this is probably one of the most agonizing decisions we'll have to make this session and I think the present amendment would just make a carnival or Mardi Gras of the occasion and I intend to support the Chair. Thank you.

THE SPEAKER:

Question is on the appeal of the ruling of the Chair.

MR. CAMP (111th):

Mr. Speaker, with great reluctance, I would support the appeal of the ruling of the Chair. It seems to me that if you put people in the position where they cannot even vote on something before this House, it should take an awfully strong feeling in that regard. I just don't feel that strongly about it and for that reason I will support the appeal.

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THE SPEAKER:

djt

Will you remark further on the appeal.

MR. STEVENS (119th):

Mr. Speaker, I rise in support of the Chair's ruling. I think if anyone took the time to examine Masons and the rulings in there on whether or not an amendment is indeed frivolous and not properly before the body, you could come to no other conclusion but that the Speaker's ruling was indeed correct. The amendment, as the Speaker ruled, was not well put. His decision was a proper one and I would urge that we uphold the ruling of the Chair.

MR. BRANNEN (48th):

Mr. Speaker, I too have read Masons and I agree that there are some amendments that may be frivolous. However, this is an issue that is one that comes from well within all of us. I believe that Rep. Stolberg has in fact given us a good two hours, two and a half hours, of well thought out information. I happen to disagree with a great deal of that but the man has done a great deal of work and he believes very, very hard that his points should be well taken. I do not believe that a barbaric act is a frivolous act of necessity and for that reason, I believe that this appeal should lose.

MR. NEVAS (136th):

Mr. Speaker, I could have supported the remarks of the gentleman who just spoke, Rep. Brannen, with respect to Rep. Stolberg's sincerity and honesty and dedication and sense of high purpose with respect to the amendments that he offered here today. I think he was motivated in that regard. However, I think he has greatly dissipated and diluted his concern and his dedication by these last two amendments. They're clearly frivolous for no real purpose to talk about public executions that took place in the 16th, 17th century and to

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compare that to modern day society is ludicrous. I support the ruling of the Chair. djh

MR. AVCOLLIE (70th):

Mr. Speaker, I would in this instance reluctantly oppose the ruling of the Chair and speak on it because my opposition has grown from a very ...surrounding your ruling, and I'm constrained to agree with Rep. King that we would have been much better off as a House and as a body had we debated the question submitted by Rep. Stolberg, rather than have caused you to make a ruling in which you really brought up Mr. Stolberg's motives, his sincerity and you've put us all to the task of deciding whether or not he is, in fact, sincere. I don't think we should take up the time of this House on this kind of subjective material. I don't think we should be taking the time of the House to the extent that we have to stand up and call another individual insincere or make reference to any of his amendments as being ludicrous or any of these other adjectives. I think we start dealing in personalities. I think we do not do ourselves or this body justice. For this reason, in protest really, Mr. Speaker, so that perhaps we will bear with other amendments that do have some modicum of sincerity and I think this one does. For the record, I don't think Mr. Stolberg would treat this subject insincerely and I believe that whereas the amendment which was just offered previously might entertain some thoughts of being insincere, this one certainly does not. I think he's had some good, sound reasoning behind it and I believe we should overrule the Chair, particularly so that this won't happen again.

MR. BINGHAM (147th):

Mr. Speaker, there's no question in my mind but that the ruling of the Chair is correct. The amendment is frivolous and it does not dignify

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the maker of the amendment. I support the ruling of the Chair. djt

THE SPEAKER:

Are you prepared to vote?

MR. GILES (4th):

Mr. Speaker, I take exception to the ruling of the Chair. I really don't think this is a frivolous amendment here. I do, however, think it is barbaric. I think it's barbaric that we are going back to the oldtime thing, you know, you kill people when they can't afford the expense of having certain calibre of lawyers to defend them. I think that it's barbaric when I look on television and I see in some of the countries in Europe where they stuck somebody up beside a post and shot them but I saw this in the last few days. I think it's barbaric when I see on television where somebody has blown somebody up in Ireland. I don't see anything frivolous about this kind of thing here if it's going to deter anybody from doing anything. Thank you.

THE SPEAKER:

All members please take their seats, staff members come to the well. Question is on appeal of the Chair's ruling that the amendment, House Amendment Schedule M offered by the gentleman from the 93rd was frivolous in nature. If you wish to support the appeal, you should vote in the affirmative. If you wish to support the ruling of the Chair, you should vote in the negative. All those in favor of the appeal, indicate by saying aye. Those opposed? The noes have it. The appeal is LOST.

MR. STOLBERG (93rd):

Mr. Speaker, in accordance with our rules, I would request that amendments B, C and D be printed in the Journal.

THE SPEAKER:

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In accordance with the rules the amendments outlined by the gentleman will be printed in the Journal.

djl

Question now is on acceptance and passage of the bill. Will you remark further?

MR. BINGHAM (147th):

Yes, Mr. Speaker. On the main bill, Mr. Speaker, it is my opinion that the death penalty decision merely holds unconstitutional the imposition of the death penalty as discretionary, non-mandatory sentencing alternative. Does not preclude the enactment of an appropriate, circumscribed legislation authorizing the imposition of the death penalty which this bill is. It is the view of the judiciary committee that it is reasonable to conclude that the death penalty has deterrent value and that it may provide a measure of protection against incorrigible and dangerous individuals. The potential criminal will know that if his intended victims die, he may also die. The murderer of a member of the State Police Department or a local police department, all will know that they may have to pay with their own lives for any lives that they take. Murder committed by a defendant who is hired to commit the murder, murder committed by a man who has previously been convicted of intentional murder, murder committed by one who at the time of the commission of murder is under a life sentence for murder or under a life sentence, murder during the course of a kidnapping, murder for the illegal sale for gain of cocain, heroin or methadone to a person who dies as a direct result of the use by him of such cocain, heroin or methadone. Under the judiciary committee's proposal, capital punishment will require a post-trial sentencing hearing for the purpose of determining the existence or non-existence of specific aggravating factors or mitigating factors. The hearing will be held before the judge who presided at the trial and before the same jury or under certain circumstances, before a

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jury specifically empanelled or before the judge alone. Imposition of the death penalty by the judge will be mandatory if there is a special verdict finding of the existence of one or more of the aggravating factors and the absence of any mitigating factor.

djh

The death sentence is prohibited if the existence of any one or more of the mitigating factors is found. Among the factors which would preclude the imposition of the death penalty are: that at the time of the offense, the defendant was under the age of eighteen or his mental capacity was significantly impaired; or that he was under unusual or substantial duress, although not such duress as to constitute a defense for the prosecution; or that his participation in such a defense was relatively minor; or that he could not have reasonably foreseen that his conduct in the course of the submission of which he was convicted would cause or would create grave risk or causing death to another. Aggravating factors would include flight from the commission or attempted commission of a felony, previously convicted of felonies of one or more offences in state or federal cases, that the crime was committed in a specially heinous, cruel or depraved manner, or that he was procured by hire, the crime was committed after the procurement by hire or committed for hire or for some pecuniary value.

I strongly urge the passage of this legislation. As I stated before, MR. Speaker, the reason for the criminal law, the reason for this particular law is that society must be protected. We have come to this stage in our history in the State of Connecticut that society itself is crying out for protection and that those people who commit heinous crimes, such as the murder of a policeman during the commission of his duties, the escape from prison by a life prisoner, the killing for hire, such heinous crimes; those

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people who commit those crimes, those people who have no regard for society or no regard for their fellow man must know that if they commit those crimes, the state will exact, under certain circumstances, in no uncertain terms, the highest penalty. This is the least we can provide for the people of the State of Connecticut. Mr. Speaker, I strongly urge the passage of this bill which in my opinion is clearly constitutional and follows the mandates of the Supreme Court of the United States.

djh

MR. FREEDMAN (135th):

Thank you, Mr. Speaker. I support this bill, Mr. Speaker, with mixed emotions. It has caused me a great deal of agonization. My first murder case, sir, was in 1954 and 1955. My client was executed and I was with him the day he died. With due respect to other speakers whose motivation I do not in any way question, I sometime think that one cannot fully understand the enormous meaning of an execution without getting close to death itself. It's an experience, Mr. Speaker, like no other to be with a man who is about to die at society's will. Why then do I support this bill? Two reasons, sir, first, I determined it was more important to support this bill than to attempt to exercise what I hoped would be a good influence to mold it into the most legal, constitutional and best bill available under all the circumstances. This is what I took an oath of office to do in this Chamber and this is what I feel I have done. Secondly, this bill attacks the paid killer, those who would seek to gain from the crime of murder. It is directed at the organized criminal. It protects the peace officer who would protect society. While my support for this bill is not necessarily based on factors of deterrence, I would support it rather as a strong governmental and yes, philosophical statement by the State of Connecticut that in the most heinous offenses, the kind referred to by the Supreme Court in the Furman case, we cannot those who would

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profit from murder and their ilk to ply their trade in the State of Connecticut. Any more than this would I believe to be unconstitutional in view of the Furman case. dj

As I said, Mr. Speaker, I have done great agonizing over this bill but I believe that my actions and my vote will be in the best interest of the people of the State of Connecticut.

MR. MERCIER (44th):

Mr. Speaker, I rise to oppose this bill for a number of reasons. First and foremost because of a deep religious conviction which holds life as a sacred God-given gift. We have heard those who would use sacred scripture to tell us one thing or another. I am sure that if we studied sacred scripture at all, we would find arguments on both sides. So often we have heard it used in the term of an eye for an eye and a tooth for a tooth but no one ever goes beyond that quote from Ecclesiastes which says: justice is mine alone sayeth the Lord.

A second reason which makes the taking of a life a difficult thing to accept is that the law of this land guarantees among our inalienable rights, life, liberty and the pursuit of happiness. If the founding fathers of this nation thought life a very simple matter, would they have chosen to write it in the founding documents of our land as a God-given gift, a right to be protected? Certainly this is a very agonizing moral decision to make. Certainly continuing life imprisonment serves as a greater deterrent to crime than the taking of a life in the matter of a few seconds. Two wrongs never made a right. Our taking a life will never make right the taking of a life preceding it.

I oppose this bill, not only because I believe God's law is

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against it, although I do, not only because the law of our land as upheld by the Supreme Court says that it is wrong, although we all know that to be so, but simply because we can never repay the dignity of man by stooping to murder no matter how glorious and noble we might enshrine it. If we cannot hold life to be sacred in this hallowed Hall, how can we expect our citizens to deem it sacred on the streets of this state? Thank you.

MR. BARD (138th):

Mr. Speaker, this is about the fourth or fifth time that I've spoken on this bill over the number of years. Though I believe in the past and in the present that however one may feel about this bill, they're sincere, I cannot support the death penalty. I am not convinced that the death penalty is a deterrent and, therefore, I don't believe that it would protect a police officer or many of the other officers.

I also believe that all human beings are capable of being rehabilitated. By taking a life, we deny that chance of rehabilitation. Until a person convicted of a crime which attaches the death penalty can have by legal right any attorney of his choosing, whether he can afford it or not, I cannot support the death penalty. Thank you.

MR. PUGLIESE (22nd):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the bill and I do so out of the feeling that it is a deterrent to crime to have the death penalty on our books. I also believe that it does protect society to have the death penalty on our books. And I am aware, Mr. Speaker, that we have perhaps beaten this thing to death this afternoon as we have in previous sessions and no one is particularly happy to hear any more longwinded speeches. However, Mr. Speaker, every time we do have this bill before us, we hear from

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djh

the opposition of all the horrendous things that the State of Connecticut intends to do with the death penalty. It is as though we deliberately set out to punish either the minority groups or the indigent or the people who cannot afford this or that or the other thing. It just so happens that I took the time to find out what the State of Connecticut has done in the past as far as the death penalty is concerned. I have on my desk a list of every individual that was put to death in the State of Connecticut since the year 1894 and though I don't intend to bore the group by reading all of them, I would like to go through and just call to mind some of the people that we have put to the Chair or to hanging just so we'll remember what type of individual we're dealing with.

And I would like to start off with the last one and I wish you would please listen because I don't believe this has ever been done before on this bill in the House. Joseph Taborsky was first convicted of killing Louis Wolfson, a package store owner during a robbery attempt in March of 1950. After being sentenced to death, he secured a new trial and eventual release by asserting that the state's chief witness was insane. Shortly after this, he murdered six people in a series of robberies in 1956 and 1957. He was executed May 17, 1960. And to the question, does the death penalty protect society, it ought to be noted that Joseph Taborsky never murdered another individual after May 17, 1960.

Frank Wascalevitch was convicted of a killing of a New Britain police sergeant and a by-stander in a shontout that left Wascalevitch paralyzed from the waist down. The murderer had led a gang that had specialized on robbing bookies. Mr. Otifka, the by-stander, had observed the crime while waiting for his wife to finish work and had attempted to warn others. He had arrived in this country from a displaced persons camp six months beforehand.

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Wascalevitch was executed October 10, 1959.

djh

George Davies was convicted of the sex slaying of an eight year old Bristol girl, Brenda Doucette, in May of 1957. He later admitted killing a sixteen year old Waterbury girl in 1956, a ten year old girl in Salisbury in 1952, a twenty-six year old Wolcott divorcee in April 1957 and an unidentified woman in the same year. The victims in the first two cases were stabbed to death with a four inch screwdriver after resisting Davies. Brenda Doucette had been stabbed 22 times, the Waterbury girl 50 times. In 1952, Davies served ten months of a one to two year term for molesting two Plymouth girls before being paroled. He was executed October 20, 1959. Do you suppose you could have rehabilitated him?

Robert Malm, a thirty-one year old Newington dishwasher with a previous record of sex offences was executed for the 1953 sex killing of an eleven year old Hartford girl on July 18, 1955.

John Donahue was convicted of shooting Ernest Morris, a thirty year old state trooper after Morris stopped him on the Merritt Parkway. Donahue, on parole from the Concord Massachusetts Reformatory for the kidnapping with intent to assault of a twenty-two year old girl, was driving a stolen car in New York. He had been convicted twice before on larceny charges and of the unlawful use of an automobile. He was from a middle-class family and had attended Boston college. He was executed July 18, 1955.

Robert Bradley, a thirty-seven year old New Haven black, was executed for the axe slaying of three other New Haven Negroes. He murdered them in order to steal their automobile. He was executed April 12, 1948.

Raymond Louie, Arthur Thomaselli and James McCarthy were convicted of the murder of Herbert Parcell, a fifty-three year old guard at the Wethers-

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field State Prison in an escape attempt. Thomaselli had been convicted of burglary; Louie of the hold-up slaying of a seventy-seven year old New Britain man in 1944 and McCarthy of the hold-up murder of a thirty-five year old man in Danbury whose name was Godfried Siegel by stabbing him ten times. The guard left a wife and two children. The three men were executed October 1, 1946. djh

And we go on back and I'm not going to read any more of them. I think it gives you an idea of the type of people that we're talking about when we say that the State of Connecticut needs the death penalty on its books. It's not a situation where you can take people of this nature and rehabilitate them. There is only one thing that you can do with them and that's eliminate them from society. I support the bill.

MR. KLEBANOFF (8th):

Mr. Speaker, I'll try to be very brief. In fact, after hearing the remarks that were made especially by Reps. Ratchford, Post, Nevas, I think there's little I can say except that I was involved not too long ago in a murder case and I think that by passing a death bill, we are putting a terrible weapon and an awesome weapon back into the hands of the state's attorney and an unhealthy weapon. It's a weapon to encourage plea bargaining. It's a weapon to encourage a defendant to cop a plea and, therefore, perhaps get a break. The pressure on a defendant, on the lawyer advising him is unbelievable. You have to think not just of the case, you have to think not just whether your client is innocent but you have to think of the odds against him and you have to think what's down the end of the road if there's a mistake in the verdict or if you're wrong in your judgment as to whether or not you can win the case. If you are wrong, if an incorrect verdict comes in, death is there. And you can talk about all the legal protections you want in a bill, you can

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talk about constitutional rights and everything else but a defendant has to think long and hard if he's offered a deal by a state's attorney as to whether or not he might be better off accepting it, because he may not at least face the choice of death. I oppose this. dj

MRS. CONNOLLY (16th):

Mr. Speaker, like some other previous speakers, I find it extremely difficult to say what I have to say now. I came in here today steeled and prepared to vote for the death penalty primarily because recently I took the poll in my district which indicated that the majority of people favored the death penalty. Their reasons for this is not for me to judge, however, I feel it reflects some of the outrage of society today against what is going on on the streets and elsewhere. Having spent most of my adult life in saving lives, I find the idea repungent to me to take someone else's life or to delegate to someone else the power to take a life. I cannot vote to take a life at the beginning, in the middle, or at the end. Like some other speakers who have spoken here today, I am too outraged at some of the heinous crimes which abound today but I do not feel that this outrage entitles me to compound that crime by taking another life. I would prefer to spend my time in trying to improve some of the ills in our society which cause some of these crimes. I'm sorry I cannot support the death penalty.

MR. HENNESSEY (28th):

Mr. Speaker, this is something that I don't want to do and don't like to do but referring to the data that Mr. Pugliese presented this Hall with, it seems totally inconsistent to use that argument why we should have capital punishment. All the examples he cited were under, were in existence when we had capital punishment. What deterrent did that have to the people that committed the crime? Obviously none because they committed the crimes. I mean if

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we are in fact saying that it's deterrent, how can we cite this as an example? djh  
We haven't shown any data since we have abolished capital punishment. There is no facts or figures that we can work with. This is why Rep. Stolberg's amendment at least to wait until '76 where we can compile new data and work with it and see if in fact it is a good argument. But I just don't see how the arguments that we're going under make any sense. Therefore, I oppose the bill. Thank you.

MR. BEVAQUA (122nd):

Mr. Speaker, I rise in total support of this bill. What we have here, in my opinion, is at long last recognition of the fact that lawlessness and disregard for the rights of law-abiding citizens need some drastic measurement to bring the situation under control. The word outrage has been used here. That's right--an outraged citizenry is seeking this legislation because they're rightfully concerned with their safety and that of their families. We've heard statistics here this afternoon on various polls that were taken, citing in certain cases where three and four to one our constituents are concerned about the restoration of the death penalty.

Now this is not a drunken driving bill or a penalty for toll evasion. This is an absolutely necessary bill to put a stop to the disdain which lawbreakers hold for our almost benevolent punishments for crime, most specifically when the life of an innocent person is taken. We seem to be forgetting that, that the life of an innocent person here has been lost and this is what we are attempting to correct. There are those here who call this bill a denial of human rights. I say that's quite the contrary. It's a bill which recognizes and protects the legal and moral rights of citizens who respect the law, the bleeding hearts will raise their hue and cry and in so doing, usurp the rights of the innocent. This bill gives our honest citizens the reassurance

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they so desperately need that the pendulum has finally begun to swing the other way, that no longer will the murderers or non-addicted drug pushers or kid-nappers will be slapped on the wrist and maybe incarcerated and perhaps even released so that they can take another life. Much has been said here about the reduction of legal executions over the years and the states that have done this. Well, I say let's look at the crime statistics in recent years. Have they not increased at a very dramatic rate, particularly crimes which result in the loss of life. As a deterrent to crime, the death penalty is exceedingly effective in my judgment because the issue of life and death here has two sides. Why we don't accept the fact that the threat of loss of life must surely discourage one who would criminally take another life or cause one to be taken, I just don't understand. Those who disagree are either naive or they are unwilling to accept the basic law of human nature. So let's quit placing the rights to the guilty over the innocent. We've been doing that for entirely too long a period. I not only support this bill but I applaud it.

MR. WEBBER (92nd):

Mr. Speaker, I would also dispute the statistics as brought to us by Rep. Pugliese because the figures made available to me indicate that 85% of murders are crimes of passion. MR. Pugliese resorted to some hardened criminals and I don't think that his statistics and his statements tell the true story here, complete story. I would also at this point congratulate Rep. Mercier for a most eloquent dissertation.

I think, Mr. Speaker, if we pass this bill today, this will be a black day in the history of this Assembly. I would answer those who claim that this bill could be a deterrent. Crime statistics show that no higher homicide rates in states with the penalty, death penalty than in those without it. The best known of these studies was conducted by Professor Thorston Sellen of the

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University of Pennsylvania for the American Law Institute. In an exhaustive study, Professor Sellen concluded that within groups of states having similar social and economic conditions and populations, trends in homicide death rates were similar and he said and I quote: "It is impossible to distinguish the abolition states from the others." A recent United Nations report finds all available information that abolition of the death penalty has no effect on murder rates. United States Senate hearings on the abolition of the death penalty held not too long ago and I quote: You cannot tell from the homicidal rates alone in contiguous states which are abolition and which are retention states. This indicates that capital crimes are dependent upon factors other than the mode of punishment.

And, Mr. Speaker, I question, I question, Mr. Speaker, whether the adoption of this bill will, in fact, reduce street crimes that the previous legislator referred to. Perhaps if we took a closer look at our social problems and put the same efforts in an attempt to solve some of those deplorable conditions that exist in our society instead of wearing blinders and keeping our heads in the sand, we might, in fact, reduce those street crimes to who he refers.

And it's interesting to note, Mr. Speaker and ladies and gentlemen, that Connecticut's correctional officials are opposed to the death penalty. In testimony two years ago before the judiciary committee, Commissioner John Manson opposed the death penalty. Former Commissioner of Corrections, Ellis McDougle also opposed it. In testimony two years ago before this same body, Dr. Lawrence Albert, Director of Social Services for the State Department of Corrections, declared that the presence of men awaiting execution seriously undermines the morale of the prison and thus destroys the chances of success of

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any rehabilitative programs. The two prison chaplains at the Somers Prison, Father Matthew Shanley and Reverend Russell Camp, are opposed to the death penalty. Bishop Joseph F. Donnelly, Auxiliary Bishop of the Archdiocese of Hartford, has said in opposition to the death penalty and I quote: Only when the state recognizes the value of human life by rejecting capital punishment will we effectively reduce violence in society.

Mr. Speaker, I am opposed to this measure very obviously and I do hope that all of us, those of you in your good wisdom take the same position. Thank you very much.

MRS. MORTON (129th):

Mr. Speaker, in concurrence with the many members on both sides of the aisle that have spoken in opposition to this bill, I would like to voice my opposition. I would like to use words used by the distinguished chairman of the judiciary committee that brought out the bill in another way, Murder by the state is the same as murder by an individual. It is a heinous crime. I'd like to indicate that many statements have been made that were indeed marvelous statements by people from both sides of the aisle and all I could add to what has already been said is the fact that I wonder if one life could ever make up for another life. The life that is taken could never return the life to the body of the person that has been killed. I said it in Bridgeport and I will repeat it here. This is a barbaric act. I am opposed to this bill.

MR. CHURCHILL (100th):

Thank you, Mr. Speaker. I rise in opposition to this bill. First, I have seen no evidence that the death penalty acts as a deterrent to crime. Second, the concept of taking a life for the commission of a crime is a primitive idea, largely motivated by revenge. Third, with the possibility of judi-

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cial error always present, taking life is an appalling risk. There is more-  
over ample evidence that the death penalty has been imposed in a prejudicial  
way, penalizing primarily those who are black, male and poor. Since 1930,  
there have been 3859 executions in the United States and 2066 of those executed  
have been black. Of the 455 reported executions for rape, 405 involved blacks.  
Nearly half of all executions for the crime of murder involved blacks. The  
blacks have been executed more often than whites since 1930, even though this  
minority represents only 10% of our population. There is no such thing as  
equal rights in the matter of the death penalty. Only 32 women have been execu-  
ted since 1930 while 3827 men have met this fate. I don't recall women having  
any constitutional protection from the death penalty. Finally, the wealthier  
members of society neither have been nor will be executed simply because they  
have the benefit of better legal counsel. Juries may not intentionally favor  
the rich but the defense is usually better for the affluent than the defense  
provided by the state for a poor man. For these and other reasons, I cannot  
support the concept of the death penalty. I agree with Patrick Murphy, the  
Commissioner of the New York Police Department, who said: the crime rate in  
New York and any other major city is always higher in areas where there is  
poverty, the breakdown in the family and high unemployment. No matter how much  
money we spend to combat crime or how severe the penalty we impose against  
crime, including death itself, we are not going to solve the problem until we  
do something about the social problems. I oppose the bill. Thank you.

MRS. PEARSON (121st):

Mr. Speaker, I respect prison guards and police but to the bill,  
it says that it would be ok to murder anyone but the people so mentioned and  
know that you would not receive the death penalty. I fully realize and respect

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these facts in that these people are performing their job in the name of law and order and that their hazards are great but quoting from the constitution it states: no man or set of men are entitled to exclusive public emolence or privileges from the community. So says the constitution of the State of Connecticut. These are the basic rights of our constitution. We here are deciding on the value of one man or woman's life over another based on his or her job. Small store owners in my district have been robbed at gunpoint. I say to you, many other store owners and workers in small stores have been harassed and robbed under gunpoint and that their lives are worth as much as anyone else's. I strongly object to singling out any one profession of people and saying that the penalty for murdering them should be greater than for murdering anyone else. If you are going to keep capital punishment, in my estimation, then I felt it should have been kept as a deterrent to protect all people of the State of Connecticut. For in truth, in passage of this bill, you are saying that capital punishment is a deterrent against murdering prison guards or police in the line of duty and if you believe that, then you must believe the basic theory that capital punishment is a deterrent against the murder of all of us and I do believe this. I strongly disagree with the court's decision and I feel once we put this law on the books, the court should make good use of it.

A story of a girl which I felt very sad about hearing about in California, a girl named Susan Bartolomi who was seventeen back in 1967 when she and her boyfriend, Timothy Luce, drove to a junkyard to find some spare parts for their car that had broken down. These two youngsters accepted a ride from two eighteen year olds and the boy, Luce, who was the son of the late county district attorney, ended up dead. Susan was raped, beaten, shot five times in the head and left for dead near a ravine. Somehow the girl dragged herself up an eighty-five foot embankment and lived to see the youths, Thomas Braun and

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Leonard Main put behind bars. The youths were charged with abduction and with Luce's death. Today, this girl lies in her bedroom. She is unable to see or hear well. She cannot talk or walk. One of these five bullets is still lodged in her brain and her vocal chords were removed shortly after she was found which was to keep her from choking to death. The girls mother said that the girl has never referred to Timothy Luce, the boy that was killed, and that it might have been what locked her into a coma for several months after this 1967 ordeal, trying really not to get at this which she could not really face. The girl did not vote in the election following that but she said using sign language that if she could vote, she would want to keep the death penalty on the books in California and she said in sign language, if people kill others, I don't see why they should be allowed to live. Susan doesn't get out of the house very much. She does have a great sense of humor, her mother has said, and she's a very nice person to be around. It was a terrible ordeal I think that this girl has gone through.

Connecticut, as was said before, last execution was in '61 when Rep. Pugliese made mention of Joseph Taborsky who fatally shot six persons during a series of robberies. But there have been no executions in the United States since June 2, 1967. Those were in California and Colorado. Now these are according to the figures released by the Department of Justice that I have checked on. 10,950 murders were committed in the United States in 1966 and in 1971, there were 17,630 murders. The point that I'm trying to say that this increase in murders is on the rise and it has risen from 1966 to 1971 at a rate of 61% increase. Could it be that there is some definite relationship between our unwillingness to execute murderers and this 61% increase in murders from 1966 to 1971. I think that in fact is the question we must ask ourselves

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the attempts are made to abolish the death penalty here today. I don't think  
that we should forget also that during the same period of time that this in-  
crease has been very high, we are told that the death penalty does not deter  
a person from committing a murder yet when we are faced with the fact that  
these murders have increased, I think we must say that they do. We must  
seriously consider the statistics when we are urged to abolish the death penalty.  
Why should anyone intending to murder someone bother to hesitate if he knows  
that there is little or no chance that he will be executed for the crime and  
will eventually be paroled as have many other murderers.

It is a fact that you must not kill. No one should take another's  
life. We must, I feel, make it clear to the people of the State of Connecti-  
cut that in this society of ours, this will not be tolerated. We must remind  
everyone of this and we are doing it today with this bill. This is not only  
the law of God but a law of the land and let it be clear and loud to the  
people if you commit murder as specified under this bill, then you may face  
a death penalty.

I would just like to add that one of the arguments saying against  
a person who would kill just to be killed themselves is not a valid argument,  
as it could also be said that people commit crime to be placed in prison.  
Would we not fail the person who wants to be put in prison by abolishing  
prisons? I will vote in favor of this bill.

THE SPEAKER:

Will the Clerk please announce an immediate roll call in the  
hall of the House? Question is on acceptance and passage of House Bill No.  
8297. All members please return to their seats, non-members come to the  
well. All members please take their seats. Question is on passage of

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substitute for H.B. No. 8297.

djh

MR. STOLBERG (93rd):

Mr. Speaker, I should like to thank you and this body for its patience and attention in the presentation of a number of amendments. I would like to take just a few minutes to summarize a position. I think there are a number of points that have not been raised in the debate, have not been raised by the committee. As suggested, this is a matter of life and death. I have data here that I wish there were time to share with you. I think it's convincing data. I think if you had an opportunity to really examine it, this bill would not pass this afternoon. Instead of going through all of it, I have selected just a couple of brief items I would like to share with you.

I should first like to congratulate Rep. Bingham, Rep. Freedman and others who worked on this bill. I think the bill displays a good deal of expertise even though I feel strongly it remains unconstitutional. I believe the bill also dissatisfies two groups in this assembly. There are those who would like to execute criminals. They feel that that would perhaps aid society in some way. Let me suggest to you, ladies and gentlemen, that it is very unlikely that this bill will accomplish that. Anyone who can afford a good lawyer, who can build mitigating circumstances will not be executed. Indeed it is only that rare individual who cannot afford a lawyer, who has no pressing desire to live that we will end up executing under this bill. The second group it dissatisfies are those who would like in recognition of *Furman vs. Georgia* and the orders of the Supreme Court and the principles of this nation and the morality of life to take capital punishment off the books once and for all to move this society perhaps one higher step away from crucifixion, away from torture, away from killing our fellow men, either individually or under the cloak of respectability of the law.

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Mr. Speaker, I would like to read a memorandum I received just today. It is from Professor Louis Pollock of the Yale Law School dated April 10, 1973, regarding the constitutionality of substitute bill 8297, An Act Concerning the Death Penalty. This runs a couple of pages but I think it's the crux of the constitutional argument and I hope all of you will listen to the merit of the argument from Professor Pollock of the Yale Law School. djh

You have asked my opinion on the constitutionality of the death sentence restoration bill, substitute bill 8297 now pending in the Connecticut legislature. My opinion is that the bill is unconstitutional in that it fails to remedy the arbitrariness in the sentencing process which reading *Furman vs. Georgia*, 92 Supreme Court 72-76 at its narrowest was the critical element in the Supreme Court decision overturning capital punishment. When I say reading *Furman vs. Georgia* at its narrowest, I mean that I am, for the purposes of the memorandum, putting out of view the conclusions voiced by Mr. Justice Brennan and Mr. Justice Marshall and shared at least in substantial measure by Mr. Justice Douglas which would appear to deny the constitutionality of the death sentence for any offense no matter how carefully the sentencing procedures were structured. Although I tend to subscribe to those constitutional conclusions, I have felt for the purpose of this memorandum obliged to confine myself to the substantially more limited constitutional reservations voiced by Mr. Justice Stewart and Mr. Justice White, reservations which without prejudice to the more extensive constitutional inditelements formulated by their three brethren led them to cast the fourth and fifth and hence the decisive votes against capital punishment.

Mr. Speaker, Professor Pollock points out that the crux of Mr. Justice Stewart's opinion is this. These death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual. For of

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all the people convicted of rapes and murders in 1967 and 1968, many just as reprehensible as these, the petitioners are among a capriciously selected random handful upon whom the death sentence has in fact been imposed. My concurring brothers have demonstrated that if any basis can be discerned for the selection of the few to be sentenced to die, it is the constitutionally impermissible basis of race. But racial discrimination has not been proved and I put it to one side.

Justice Stewart pointed out, I simply conclude that the Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and freakishly imposed.

Mr. Speaker, I would here interject that the reason we have the second trial process before us, the so-called McClellan Amendment, is an effort to deal with the objections of the Supreme Court but in reality, a first trial to determine guilt or innocence and a second hearing to determine whether capital punishment will be levied or not increases the freakishness and chance as applied to capital punishment. Thus it seems virtually certain that five votes will be there on the Supreme Court to declare a bill such as this, if it becomes law, clearly unconstitutional.

The fifth and crucial vote, that of Mr. Justice White, is phrased in the following way. I am quoting now from Supreme Court Justice White. The imposition and execution of the death penalty are obviously cruel in the dictionary sense but the penalty has not been considered cruel and unusual punishment in the constitutional sense because it was thought justified by the social ends, it was deemed to serve. At the moment that it ceases realistically to further these purposes, however the emerging question is whether its imposi-

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tion in such circumstances would violate the Eighth Amendment. It is my view that it would for its imposition would then be pointless and needless extinction of life with only marginal contributions to any discernable social or public purposes. A penalty with such negligible returns to the state would be patently excessive and cruel and unusual punishment violative of the Eighth Amendment.

Justice White goes on in his opinion but I think the thrust is clearly there.

Professor Pollock summarizes his contentions in his constitutional objections to substitute bill 8297 as follows. The first place that discretion presents itself is in the judgment made by the finder of fact, whether jury or judge, as to whether the person indicted is guilty or innocent of the charge against him. Without dissecting in detail each of the offenses in section 3, I think it is clear that each of them is unavoidably so ambiguously defined as to make it almost impossible to chart rationally the circumstances which will lead to a verdict of guilt on the one hand and innocence on the other. To say that this is always a concomitant of process of determining guilt versus innocence is true but the point is that here the process is constitutionally significant in that a guilty verdict brings into play the possible imposition of a death sentence.

Secondly, the general point I've made in the preceding paragraph is highlighted by the explicit provision of section 1-d that "the court or jury before which any person indicted for murder is tried may find him guilty of homicide in a lesser degree than that charged. Given that murder is the name assigned to the first five of the six capital felonies defined in section 3, it is obvious that in the overwhelming majority of the cases which would arise

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under substitute bill 8297, were it to become law, the court or jury deciding on guilt on innocence would be authorized (a) to find the accused guilty of homicide and then (b) to determine without any statutory limitation on its discretionary authority whether or not the homicide was murder within the meaning of section 3 and hence a capital felony. djh

The third and last point of Professor Pollock is a separate reservoir of virtually unchannelled discretion is section 4. As one examines the several mitigating sub-section (f) and aggravating sub-section (g) factors, two things are plain. The first is that only in the very rarest instances will the jury or court find beyond a reasonable doubt that there is at least one aggravating factor and no mitigating factors. The second is that each of those determinations, except the question whether the accused was under the age eighteen at the time of the offence is discretionary in the sense that it is rooted in the questions as ambiguous as those which underlie the initial determination of guilt or innocence.

Professor Pollock goes on at length. I will only read his final paragraph which is. The conclusion that substitute bill 8297 is unconstitutional is not a criticism of the drafters. It is rather a recognition that they were undertaking a constitutional impossibility maintaining the idea of death sentence while insuring that it would, in practice, almost never be imposed. The result, Mr. Speaker, is necessarily is not merely that death sentences would be rarities but those rarities would occur to use Mr. Justice Stewart's phrase "wantonly and freakishly" and, Mr. Speaker, thus unconstitutionally.

Mr. Speaker, I think Professor Pollock's exposition cannot adequately be refuted. The five Justices have their opinions. This law is highly vulnerable to at least five of the Supreme Court Justices who have

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already ruled on the previous application of capital punishment.

djh

MR. Speaker, on the last amendment before us, a number of people rose to point out that watching or hearing or witnessing or perhaps even smelling a human body being burned would be barbarous. I think they missed the point somewhat. It is not the watching of the act that is barbarous, it is the act itself which is barbarous and contemptible in twentieth century civilization.

Mr. Speaker, I would just like to outline eleven reasons why capital punishment is not appropriate in the State of Connecticut. First, it is cruel and inhuman punishment; second, if we pass this bill, the state would be setting itself up as God when through the legal process it would take the life of another human being; third, the absence of capital punishment presents no additional danger to police or prison officials and that is the opinion of most criminologists, Albert, Duffy, McDougle, Manson ran the gamut of them, if you want professional opinion, it's against capital punishment; number four, paroled murderers represent no particular danger to the public. We've heard from Rep. Pugliese and Rep. Bevaqua today about the beasts that can run rampant on society. I think it's important that every representative here realize that it's convicted murderers that have the lowest recidivism rate of any major category of criminal and you can go through the statistics on all those convicted murderers who were released. Fewer of them return to prison for capital or other crimes than virtually every other category of criminal. Fifth, Mr. Speaker, the costs in the prosecution and trial of criminals and the maintenance of the death house often exceed that significant cost of doing away with capital punishment and maintaining life imprisonment. Next, Mr. Speaker, capital punishment, and I think this is a crucial point,

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djh

destroys the society's view of human life, the respect for human life and particularly in the cases of psychopathic or psychiatricly disturbed people, incite murderous intentions. Mr. Speaker, Carl Menninger and many other psychiatrists have pointed out that if we reimpose capital punishment, indeed we may be accessories to murder because homicidal and suicidal personalities are reverse sides of the same coin and indeed many who kill, kill in a desire to be punished themselves. Mr. Speaker, seventh, life imprisonment, it would seem to me, with the various opportunities and infringements on those opportunities that could occur in prison is a greater deterrent than capital punishment itself. Next, it is obvious that capital punishment is not uniformly applied. Nine, Mr. Speaker, I believe if I am not incorrect that the distinguished chairman of the judiciary committee contended during the debate in the committee that in this country no innocent person had ever been executed. I would like to challenge that statement. I think there are a number of cases where the evidence is that in this country, innocent human beings have been killed by the state. I'm quoting from a study which appears in the hearings of sub-committee number three of the committee on the judiciary of the United States House of Representatives. On page 312 that study maintains and I quote "proponents of capital punishment have not argued that the institution is worth the execution of innocent men but rather that there is no real possibility of innocent men being executed. Today there exists, however, a large body of careful research which shows that innocent men are often convicted of crimes, including capital crimes, and that some of them have been executed." Mr. Speaker, I think it's important that the historic record this evening show and I quote "the books of Borchard, Gardner, Frank and Radin document scores of cases of conviction of the innocent...Bideau reports 74 instances of wrong-

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ful conviction for murder in this country since 1893 resulting in eight executions. Mr. Speaker, over a hundred years ago, our sister state of Rhode Island in revulsion at finding the probability that it had executed an innocent man took capital punishment off the books and it is yet to be returned. djh

The next to the last point to be made is that capital punishment's infrequent use makes it a cruel and unusual punishment but moreover it does not deter criminal behavior in that it inhibits the swiftness and probability of punishment which criminologists argue is the important aspect of punishment, the swiftness and probable nature of it. The last point to be made, Mr. Speaker, is the crucial one and that is that the proponents of this bill and the proponents of capital punishment have yet to lay evidence before this body that it is indeed a deterrent. All of the studies I have examined show no statistical difference in the incidents of murder rapes between countries that have it and don't, states that have it and don't, and states that have had it and have abolished it.

Mr. Speaker, I would suggest in light of these eleven arguments, the statistics that have been presented, the overwhelming evidence against the effectiveness of capital punishment, the morality of capital punishment, its usefulness to society as a rehabilitating tool or its usefulness to society as a protective device, that today this legislature vote down this bill and take one very significant step toward the type of civilized state and nation that we can turn over to our children with some degree of pride. Thank you.

THE SPEAKER:

Will all members please return to their seats.

MR. BINGHAM (147th):

Mr. Speaker, very briefly. The argument advanced by Rep. Stolberg

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reciting Professor Pollock indicates that Professor Pollock is straining to find a tortured consideration of Furman against Georgia. I will not take up the time of this body to indicate that the Supreme Court of the United States has not decided that capital punishment is unconstitutional. I would be glad to debate Mr. Stolberg in the hall outside. I have a 25 page document which indicates that Professor Pollock is clearly wrong. Further, the Attorney General of the United States feels that this bill is constitutional and further the McClellan Committee feels that a bill of this nature is constitutional and further, Assistant Attorney General Henry E. Peterson has statistics which will refute the statistics of Mr. Stolberg.

Mr. Speaker, this is a constitutional bill. Mr. Speaker, this bill satisfies the needs of the State of Connecticut and I strongly support the bill.

THE SPEAKER:

All members please take their seats.

MR. ANTONETTI (116th):

Mr. Speaker, a question through you to Mr. Stolberg.

THE SPEAKER:

Please state your question.

MR. ANTONETTI (116th):

Mr. Stolberg, do you support the recent court's decision on taking the life of an innocent unborn child since you are a proponent of preserving life?

MR. STOLBERG (93rd):

Mr. Speaker, that opens up an entirely new debate. I think we've tried the patience of the body long enough, including myself. I think it's important even though most minds are made up that this evidence was presented

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before all of us. I think there are different cases. I haven't read the decision on abortion but when I do, I will be glad to give you my opinion on it.

djh

MR. ANTONETTI (116th):

I feel strongly that the question of capital punishment and abortion are related and yet they are different for I feel that we must establish here the right of an individual, the right as far as life. In one case, we are determining to dissolve life of someone who has committed a crime against individuals of the state and in another case, we are taking the life of an individual who does not have the right to due process. I strongly believe that both these factors are related; that the innocent unborn child has rights but those who see the execution of a convicted criminal as something unworthy of civilized people, I find that the view is both contradictory and hypocritical.

THE SPEAKER:

If all members would please take their seats.

MR. ROSE (38th):

Thank you, Mr. Speaker. I intend to vote against this bill and I know that each one of us has spent a great deal of time here struggling with our conscious and in how we're going to vote. I feel that if we are the civilized society, have high ideals that we must pass on to our children and those who come after us as legislators here solutions that are long lasting for the creation of a better society and I feel that imposing the death penalty on whatever kind of criminal may exist is really surrendering our responsibility to building a better society. We cannot sweep the problem under the rug by getting rid of an individual. I know that it is a struggle for each one of us and I am sorry that we have the long session and the fatigue which comes with it that when Rep. Stolberg says, I have eleven points, we have a groan from

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everybody. This is most unfortunate and I think that we should respect him and I know we do, but if we're going to make our decisions on the basis of being fatigued, then I think it would be a very poor decision. I, for one, shall vote against capital punishment. I think society can be better protected by prison terms and the reformation of those conditions which cause criminals to exist. And this, I think, is our highest duty to our society. Thank you very much.

MR. KING (21st):

I'll be very brief. I have voted against capital punishment in the past and I have wrestled as all of us have with this today and am barely able to vote for this bill. I'm not at all sure that I'm right but I think perhaps narrowed down as it is that this is the right thing because I do believe that there is a good chance that this constitutes a deterrent in the situations in which the bill is restricted. I will say that I think we're hypocritical here today some of us also felt, and I think all of us surely felt that driving while drinking under the influence kills far more people than murders, robbers, rapists or anything else will ever kill in the next hundred years in this state. I think it was evident that that putting those people in jail for a few days likewise would have been a deterrent. I think a lot has been said against this bill today that made a lot of sense. I would hope that we would all use this debate on both sides to good advantage, to think as to how we might avail ourselves of that knowledge in the future on many things that come before us.

THE SPEAKER:

If all members would please take their seats, staff members come to the well. Question is on acceptance and passage of H.B. No. 8297. The

machine will be open. Has everyone voted? The machine will be closed and  
the Clerk will please take a tally. djh

MR. STEVENS (119th):

Mr. Speaker, it is our intention to take up just one more item  
which I believe is not controversial. On page 4, the third item, Calendar No.  
307 and then adjourn until 1:00 p.m. tomorrow for a regular session.

To all Republican members, there will be a Republican caucus  
at 12 noon tomorrow in the Appropriations Room.

THE ASSISTANT CLERK:

Total number voting on H.B. No. 8297:

Total number voting.....	132
Necessary for passage.....	66
Those voting Yea.....	83
Those voting Nay.....	49
Absent and not voting.....	19

THE SPEAKER:

The joint committee's favorable report is accepted and the bill  
is PASSED.

THE SPEAKER:

Will the Clerk please call the item on page 4.

THE CLERK:

On page 4 of your Calendar, Calendar No. 307, File No.299, H.B.  
No. 8311, An Act Concerning Payment of Dividends by Credit Unions, favorable  
report of the Committee on Banks and Regulated Activities.

MR. MC GILL (40th):

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

THE SPEAKER:

**11.**

**House Amendment Schedule A  
LCO No. 7628  
Withdrawn, April 11, 1973**

**Amendment**

Calendar No. ....

Schedule A .....

File No. 291 .....

Subst. ....

X ~~Senate House Bill~~ } No. 8297  
X ~~Senate House Joint Resolution~~ X

Senate, ..... 19

ADOPTED

Clerk.

H. of R., ..... 19

ADOPTED

*Withdrawn  
Print in Journal*

Clerk.

LCO No. 7628

EBB

AMENDMENT

4

LCO No. 7628

7

Offered by Rep. Pugliese, 22nd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

In section 3, line 86, after "person" strike out the period  
and add the following "; (7) murder committed by a person who  
was, at the time, committing a robbery or burglary while armed."

13

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16

12.

**House Amendment Schedule B,  
LCO No. 7629  
Rejected April 11, 1973.**

Amendment

Calendar No. ....

Schedule 3

File No. 291

Subst.

~~Senate: House Bill~~ } No. 8297  
~~Senate: House: Joint Resolution:~~ }

Senate, ..... 19

ADOPTED

Clerk.

STATE OF CONNECTICUT  
HOUSE OF REPRESENTATIVES  
H. of R., ..... 19

APR 11 1978

REJECTED

*Rejected*  
*By the M. J. ...* Clerk.

*L. ...*  
93

LCO No. 7629

AMENDMENT

4

LCO No. 7629

7

Offered by Rep. Stolberg, 93rd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

In section 3, strike out lines 81 to 86, inclusive, and substitute in lieu thereof: "or be returned to safety."

13

14

**13.**

**House Amendment Schedule C,  
LCO No. 7780  
Rejected April 11, 1973.**

Amendment

Calendar No. ....

Schedule ..... C

File No. .... 291

Subst.  
Senate House Bill } No. 8297  
~~Senate House Joint Resolution~~ }

Senate, ..... 19

ADOPTED

Clerk.

H. of R., ..... 19

ADOPTED

STATE OF CONNECTICUT  
HOUSE OF REPRESENTATIVE

APR 11 1973

REJECTED

Clerk.

*Lucille M. How*

93

Rej.

AMENDMENT

4

LCO No. 7780

7

Offered by REP. STOLBERG, 93rd District

8

To Substitute H.B. No. 8297 File No. 291 Calendar No.

9

Add section 16 as follows: Sec. 16. This act shall take effect July 1, 1976.

13

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**14.**

**House Amendment Schedule D,  
LCO No. 7782  
Rejected April 11, 1973.**

Amendment

Calendar No. ....

Schedule ..... 0

File No. .... 291

Subst.

~~House~~ House Bill } No. 8297  
~~Senate~~ House Joint Resolution }

Senate, ..... 19

ADOPTED

Clerk.

H. of R., ..... 19

ADOPTED

Clerk.

STATE OF CONNECTICUT  
HOUSE OF REPRESENTATIVES

APR 11 1973

REJECTED

*Lucille M. Hall*

93

ORDERED BY THE SPEAKER  
TO SUBMIT TO THE HOUSE OF REPRESENTATIVES  
Section 1. Section 100  
general Statute is repealed and  
1101. Chapter 300  
imposed the death sentence is imposed  
601.  
(b) Where the court and  
reference indicated for further may

LCO No. 7782

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Offered by REP. STOLBERG, 93rd District

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To Substitute H.B. No. 8297 File No. 291 Calendar No.

9

Strike out everything after the enacting clause and substitute in lieu thereof the following:

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Section 1. Section 53a-45 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) Murder is punishable as a class A felony [unless the death sentence is imposed as provided by section 53a-46].

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(b) [Where the court and the state's attorney consent, a person indicted for murder may plead guilty thereto, in which case the court shall sentence him as for a class A felony.

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(c) If a person indicted for murder waives his right to a jury trial and elects to be tried by a court, the court shall be composed of the judge presiding at the session and two other judges to be designated by the chief justice of the supreme court, and such judges, or a majority of them, shall determine the question of guilt or innocence and shall [, as provided in said section 53a-46,] render judgment and impose sentence.

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[(d)] (c) The court or jury before which any person indicted for murder is tried may find him guilty of homicide in a lesser degree than that charged.

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Sec. 2. Section 53a-54 of the general statutes is repealed and the following is substituted in lieu thereof: (a) A person is guilty of murder when: (1) With intent to cause the death of another person, he causes the death of such person or of a third person or causes a suicide by force, duress or deception; except that in any prosecution under this subsection, it shall be an affirmative defense that the defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's

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situation under the circumstances as the defendant believed them to be, provided nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime; or (2) acting either alone or with one or more persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, deviate sexual intercourse in the first degree, sexual contact in the first degree, escape in the first degree, or escape in the second degree and, in the course of and in furtherance of such crime or of flight therefrom, he, or another participant, if any, causes the death of a person other than one of the participants, except that in any prosecution under this subsection, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (A) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (B) was not armed with a deadly weapon, or any dangerous instrument; and (C) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (D) had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

(b) Evidence that the defendant suffered from a mental disease, mental defect or other mental abnormality is admissible, in a prosecution under subdivision (1) of subsection (a) on the question of whether the defendant acted with intent to cause the death of another person.

(c) Murder is punishable as a class A felony [unless the death penalty is imposed as provided by section 53a-46].

Sec. 3. Section 53a-92 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) A person is guilty of kidnapping in the first degree when he abducts another person and when: (1) His intent is to compel a third person to pay or deliver money or property as ransom, or to engage in other particular conduct or to refrain

from engaging in particular conduct; or (2) he restrains the 64  
person abducted with intent to (A) inflict physical injury upon  
him or violate or abuse him sexually; or (B) accomplish or 65  
advance the commission of a felony; or (C) terrorize him or a  
third person; or (D) interfere with the performance of a 66  
government function or (3) the person abducted dies during the  
abduction or before he is able to return or to be returned to 67  
safety. Such death shall be presumed, in a case where such  
person was less than sixteen years old or an incompetent person 68  
at the time of the abduction, from evidence that his parents,  
guardians or other lawful custodians did not see or hear from him 69  
following the termination of the abduction and prior to trial and  
received no reliable information during such period persuasively 70  
indicating that he was alive. In all other cases, such death  
shall be presumed from evidence that a person whom the person 71  
abducted would have been extremely likely to visit or communicate  
with during the specified period were he alive and free to do so 72  
did not see or hear from him during such period and received no  
reliable information during such period persuasively indicating 73  
that he was alive. 74  
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(b) Kidnapping in the first degree is punishable as a class 79  
A felony [unless the death sentence is imposed as provided by 80  
section 53a-46. When the court and the state's attorney consent,  
a person indicted for kidnapping in the first degree may plead 81  
guilty thereto, in which case the court shall sentence him as for 82  
a class A felony]. 83

Sec. 4. Subsection (b) of section 53a-28 of the 1971 84  
noncumulative supplement to the general statutes is repealed and 85  
the following is substituted in lieu thereof: [Except as 86  
provided in sections 53a-45, [53a-46,] 53a-92 and 53a-93,] When a  
person is convicted of an offense, the court shall impose one of 87  
the following sentences: (1) A term of imprisonment; or (2) a 88  
sentence authorized by section 18-73 or 18-75; or (3) a fine; or 89  
(4) a term of imprisonment and a fine; or (5) a term of  
imprisonment, with the execution of such sentence of imprisonment 90

suspended, entirely or after a period set by the court, and a 91  
period of probation or a period of conditional discharge; or (6) 92  
a term of imprisonment, with the execution of such sentence of 93  
imprisonment suspended, entirely or after a period set by the  
court, and a fine and a period of probation, or a period of 94  
conditional discharge; or (7) a fine and a sentence authorized by 95  
section 18-73 or 18-75; or (8) a sentence of unconditional 96  
discharge.

Sec. 5. Subsection (b) of section 53a-35 of the 1971 97  
noncumulative supplement to the general statutes is repealed and 98  
the following is substituted in lieu thereof: The maximum term 99  
of an indeterminate sentence shall be fixed by the court and  
specified in the sentence as follows: (1) For a class A felony, 100  
life imprisonment [unless a sentence of death is imposed in 101  
accordance with section 53a-46]; (2) for a class B felony, a term 102  
not to exceed twenty years; (3) for a class C felony, a term not  
to exceed ten years; (4) for a class D felony, a term not to 103  
exceed five years; and (5) for an unclassified felony, a term in 104  
accordance with the sentence specified in the section of the 105  
general statutes that defines the crime.

Sec. 6. Sections 53a-46 and 53a-93 of the 1969 supplement 107  
to the general statutes, as amended, is repealed. 108

15.

**House Amendment Schedule E,  
LCO No. 7774  
Withdrawn April 11, 1973.**

Amendment

Calendar No. ....

Schedule ..... *E* .....

File No. .... 291 .....

Subst.  
~~House Bill~~ } No. .... 8297  
~~Senate Concurrent Resolution~~

Senate, ..... 19

ADOPTED

Clerk.

H. of R., ..... 19

ADOPTED

*Withdrawn*

*[Signature]* Clerk.

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LCO No. 7774

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Offered by REP. STOLBERG, 93rd District

8

To Substitute H.B. No. 8297 File No. 291 Calendar No.

9

In section 1, strike out lines 4 to 6, inclusive, and substitute in lieu thereof: "Murder is punishable as a class A felony [unless the death sentence is imposed as provided by section 53a-46]."; strike out lines 19 and 20 and insert in lieu thereof: "innocence and shall [, as provided in said section 53a-46,] render judgment and impose"

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In section 2, line 49, insert a period after "felony" and strike out lines 50 to 52, inclusive.

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Strike out sections 3 and 4 and renumber succeeding sections accordingly.

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In section 5, lines 228 and 247, strike out the brackets.

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Strike out section 6.

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In section 7, line 279, strike out "3 AND 4 OF THIS ACT"

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In section 8, strike out lines 312 to 314, inclusive, and insert in lieu thereof: "crime."

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**16.**

**House Amendment Schedule F  
LCO No. 7778**

**Withdrawn April 11, 1973**

Amendment

Calendar No. ....

Schedule ..... *F*

File No. 291

Subst.

~~in Senate~~ House Bill } No. 8297  
~~in Senate~~ House Joint Resolution }

Senate, ..... 19

ADOPTED

Clerk.

H. of R., ..... 19

ADOPTED

*Withdrawn*

Clerk.

*Eng. Clerk*

*93*

LCO No. 7778

7

Offered by REP. STOLBERG, 93rd District

8

To Substitute H.B. No. 8297 File No. 291 Calendar No.

9

Strike out everything after the enacting clause and substitute in lieu thereof the following:

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Section 1. Section 53a-45 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) Murder is punishable as a class A felony [unless the death sentence is imposed as provided by section 53a-46].

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(b) [Where the court and the state's attorney consent, a person indicted for murder may plead guilty thereto, in which case the court shall sentence him as for a class A felony.

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(c) If a person indicted for murder waives his right to a jury trial and elects to be tried by a court, the court shall be composed of the judge presiding at the session and two other judges to be designated by the chief justice of the supreme court, and such judges, or a majority of them, shall determine the question of guilt or innocence and shall [, as provided in said section 53a-46,] render judgment and impose sentence.

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(d) The court or jury before which any person indicted for murder is tried may find him guilty of homicide in a lesser degree than that charged.

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Sec. 2. Section 53a-54 of the general statutes is repealed and the following is substituted in lieu thereof: (a) A person is guilty of murder when: (1) With intent to cause the death of another person, he causes the death of such person or of a third person or causes a suicide by force, duress or deception; except that in any prosecution under this subsection, it shall be an affirmative defense that the defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's

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situation under the circumstances as the defendant believed them to be, provided nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime; or (2) acting either alone or with one or more persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, deviate sexual intercourse in the first degree, sexual contact in the first degree, escape in the first degree, or escape in the second degree and, in the course of and in furtherance of such crime or of flight therefrom, he, or another participant, if any, causes the death of a person other than one of the participants, except that in any prosecution under this subsection, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (A) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (B) was not armed with a deadly weapon, or any dangerous instrument; and (C) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (D) had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

(b) Evidence that the defendant suffered from a mental disease, mental defect or other mental abnormality is, admissible, in a prosecution under subdivision (1) of subsection (a) on the question of whether the defendant acted with intent to cause the death of another person.

(c) Murder is punishable as a class A felony [unless the death penalty is imposed as provided by section 53a-46].

Sec. 3. Section 53a-92 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) A person is guilty of kidnapping in the first degree when he abducts another person and when: (1) His intent is to compel a third person to pay or deliver money or property as ransom, or to engage in other particular conduct or to refrain

from engaging in particular conduct; or (2) he restrains the person abducted with intent to (A) inflict physical injury upon him or violate or abuse him sexually; or (B) accomplish or advance the commission of a felony; or (C) terrorize him or a third person; or (D) interfere with the performance of a government function or (3) the person abducted dies during the abduction or before he is able to return or to be returned to safety. Such death shall be presumed, in a case where such person was less than sixteen years old or an incompetent person at the time of the abduction, from evidence that his parents, guardians or other lawful custodians did not see or hear from him following the termination of the abduction and prior to trial and received no reliable information during such period persuasively indicating that he was alive. In all other cases, such death shall be presumed from evidence that a person whom the person abducted would have been extremely likely to visit or communicate with during the specified period were he alive and free to do so did not see or hear from him during such period and received no reliable information during such period persuasively indicating that he was alive.

(b) Kidnapping in the first degree is punishable as a class A felony [unless the death sentence is imposed as provided by section 53a-46. When the court and the state's attorney consent, a person indicted for kidnapping in the first degree may plead guilty thereto, in which case the court shall sentence him as for a class A felony].

Sec. 4. Subsection (b) of section 53a-28 of the 1971 noncumulative supplement to the general statutes is repealed and the following is substituted in lieu thereof: Except as provided in sections 53a-45, [53a-46,] 53a-92 and 53a-93, when a person is convicted of an offense, the court shall impose one of the following sentences: (1) A term of imprisonment; or (2) a sentence authorized by section 18-73 or 18-75; or (3) a fine; or (4) a term of imprisonment and a fine; or (5) a term of imprisonment, with the execution of such sentence of imprisonment

suspended, entirely or after a period set by the court, and a 91  
period of probation or a period of conditional discharge; or (6) 92  
a term of imprisonment, with the execution of such sentence of 93  
imprisonment suspended, entirely or after a period set by the  
court, and a fine and a period of probation, or a period of 94  
conditional discharge; or (7) a fine and a sentence authorized by 95  
section 18-73 or 18-75; or (8) a sentence of unconditional 96  
discharge.

Sec. 5. Subsection (b) of section 53a-35 of the 1971 97  
noncumulative supplement to the general statutes is repealed and 98  
the following is substituted in lieu thereof: The maximum term 99  
of an indeterminate sentence shall be fixed by the court and  
specified in the sentence as follows: (1) For a class A felony, 100  
life imprisonment [unless a sentence of death is imposed in 101  
accordance with section 53a-46]; (2) for a class B felony, a term 102  
not to exceed twenty years; (3) for a class C felony, a term not  
to exceed ten years; (4) for a class D felony, a term not to 103  
exceed five years; and (5) for an unclassified felony, a term in 104  
accordance with the sentence specified in the section of the 105  
general statutes that defines the crime.

Sec. 6. Notwithstanding the provisions of section 7 of this 106  
act, any person who has been sentenced for life following a 107  
conviction under section 2 or subdivision (3) of section 3 of 108  
this act shall be ineligible to go at large on parole until he  
shall have served under such life sentence that number of years 109  
which is equivalent to one-half the number of years of his life 110  
expectancy as determined as of the time of his sentencing and 111  
shall have submitted to psychiatric evaluation to determine his 112  
suitability for parole. If, following such evaluation, the board  
of parole unanimously recommends parole for such person, he shall 113  
be presented for a hearing before a panel of three judges of the 114  
superior court, designated for such purpose by the chief judge of 115  
said court, provided the judge who presided at the trial of such 116  
person shall not be a member of such panel. The state's attorney  
for the county or judicial district within which such person was 117

convicted shall receive notice of such hearing and may present 118  
his views with respect to such parole. At such hearing there 119  
shall be no appearance amicus curiae. Such panel may, by  
unanimous vote, grant parole to such person and the provisions of 120  
sections 7 and 8 of this act and section 2 of number 25 of the 121  
public acts of 1972 shall apply except that the first three years 122  
of such parole shall be probationary and subject to revocation if  
such person is found guilty of a felony committed during such 123  
period.

Sec. 7. Section 1 of number 25 of the public acts of 1972 124  
is repealed and the following is substituted in lieu thereof: 125  
Any person confined in the Connecticut Correctional Institution, 126  
Somers, or the maximum security division of the Connecticut  
Correctional Institution, Niantic, for an indeterminate sentence, 127  
after having been in confinement under such sentence for not less 128  
than the minimum term, or EXCEPT AS PROVIDED IN SECTION 6 OF THIS 129  
ACT, if sentenced for life, after having been in confinement 130  
under such sentence for not less than twenty-five years, less  
such time, not exceeding a total of five years, as may have been 131  
earned under the provisions of section 18-7, may be allowed to go 132  
at large on parole in the discretion of the panel of the board of 133  
parole for the institution in which the person is confined, if  
(1) it appears from all available information, including such 134  
reports from the commissioner of correction as such panel may 135  
require, that there is reasonable probability that such inmate 136  
will live and remain at liberty without violating the law and (2)  
such release is not incompatible with the welfare of society. 137  
Such parolee shall be allowed in the discretion of such panel to 138  
return to his home or to reside in a residential community  
center, or to go elsewhere, upon such terms and conditions, 139  
including personal reports from such paroled person, as such 140  
panel prescribes, and to remain, while on parole, in the legal 141  
custody and control of the board until the expiration of the  
maximum term or terms for which he was sentenced. Any parolee 142  
released on condition that he reside in a residential community 143

center may be required to contribute to the cost incidental to 144  
such residence. Each order of parole shall fix the limits of the  
parolee's residence, which may be changed in the discretion of 145  
such panel. Within one week after the commitment of each person 146  
sentenced during any criminal term of the superior court, the  
state's attorney of each county and the state's attorney at 147  
Waterbury shall send to the board of parole the record, if any, 148  
of each person sentenced to the Connecticut Correctional 149  
Institution, Somers, or committed to the custody of the  
commissioner of correction during such term. In the case of an 150  
inmate serving a sentence at the Connecticut Correctional 151  
Institution, Cheshire, or at the Connecticut Correctional 152  
Institution, Niantic, the board of parole shall establish, by 153  
rule, the date upon which said board shall notify the inmate that  
his eligibility for parole will be considered. At any time prior 154  
thereto the commissioner of correction may recommend that parole 155  
be granted and, under special and unusual circumstances, the  
commissioner may recommend that an inmate be discharged from the 156  
institution.

Sec. 8. Section 3 of said act is repealed and the following 157  
is substituted in lieu thereof: SUBJECT TO THE PROVISIONS OF 158  
SECTION 6 OF THIS ACT, if it appears to the appropriate panel of 159  
the board of parole that any convict or inmate on parole or  
eligible for parole will lead an orderly life, said panel, by a 160  
unanimous vote of all the members present at any regular meeting 161  
thereof, may declare such convict or inmate discharged from the 162  
custody of the commissioner of correction and shall thereupon 163  
deliver to him a written certificate to that effect under the  
seal of the board of parole and signed by its chairman and the 164  
commissioner.

Sec. 9. Section 53a-46 and 53a-93 of the general statutes 165  
are repealed. 166

17.

**House Amendment Schedule G  
LCO No. 7632**

**Rejected April 11, 1973**

Amendment

Calendar No. ....

Schedule 2

File No. 291

Subst.

~~Senate House Bill~~  
~~Senate House Joint Resolution~~ } No. 8297

Senate, ..... 19

ADOPTED

STATE OF CONNECTICUT  
HOUSE OF REPRESENTATIVES  
H. of R., ..... 19  
APR 11 1973

Clerk.

REJECTED

*Russell M. Roy* Clerk.

*John A. ...*  
93

LCO No. 7632

AMENDMENT

4

LCO No. 7632

7

Offered by Rep. Stolberg, 93rd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

In section 3, strike out lines 78 to 81, inclusive, and  
insert in lieu thereof: "imprisonment; (5) the illegal sale,"

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**18.**

**House Amendment Schedule H  
LCO No. 7631**

**Withdrawn April 11, 1973**

Amendment

Calendar No. ....

Schedule H .....

File No. 291 .....

Subst. ....

~~Senate~~ House Bill } No. 8297  
~~Senate House Joint Resolution~~ }

Senate, ..... 19

ADOPTED

Clerk.

H. of R., ..... 19

ADOPTED

Clerk.

LCO No. 7631

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Mulrdown

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AMENDMENT

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LCO No. 7631

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Offered by Rep. Stolberg, 93rd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

In section 3, line 75, strike out "murder"; strike out lines  
76 and 77 and in line 78 strike out "imprisonment; (5)"; in line  
81 strike out "(6)" and insert "(5)"

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**House Amendment Schedule I  
LCO No. 7630**

**Withdrawn April 11, 1973**

**Amendment**

Calendar No. ....

Schedule I

File No. 291

Subst.

~~x Senate House Bill~~  
~~x Senate House Joint Resolution~~ } No. 8297

Senate, ..... 19

ADOPTED

*Michaelson*

Clerk.

H. of R., ..... 19

ADOPTED

*Langstaff*  
93

Clerk.

LCO No. 7630

AMENDMENT

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LCO No. 7630

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Offered by Rep. Stolberg, 93rd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

In section 3, line 72, strike out "(3) murder committed by";

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strike out lines 73 to 75, inclusive, and insert "(3) murder"

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**20.**

**House Amendment J  
LCO No. 7633**

**Withdrawn April 11, 1973**

**Amendment**

Calendar No. ....

Schedule ..... J .....

File No. .... 291 .....

Subst.

~~Senate House Bill~~  
~~Senate House Joint Resolution~~ } No. 8297

Senate, ..... 19

ADOPTED

*W. M. ...*  
Clerk.

H. of R., ..... 19

ADOPTED

*W. J. ...*  
Clerk.  
93

LCO No. 7633

AMENDMENT

4

LCO No. 7633

7

Offered by Rep. Stolberg, 93rd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

In section 3, strike out lines 68 to 72, inclusive, and 12  
substitute in lieu thereof: "within the scope of his duties; (2) 13  
murder committed by"; in line 75, strike out "(4)" and insert 14  
"(3)"; in line 78, strike out "(5)" and insert "(4)"; in line 81, 15  
strike out "(6)" and insert "(5)" 16

21.

**House Amendment Schedule K  
LCO No. 7634**

**Withdrawn April 11, 1973**

**Amendment**

Calendar No. ....

Schedule ..... *K* .....

File No. .... 291 .....

Subst. ....

~~XXXX~~ Senate House Bill } No. 8297  
~~XXXX~~ Senate House Joint Resolution }

Senate, ..... 19

ADOPTED

*Melchior*

Clerk.

H. of R., ..... 19

ADOPTED

*Long's* Clerk.

93

LCO No. 7634

AMENDMENT

4

LCO No. 7634

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Offered by Rep. Stolberg, 93rd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

In section 3, strike out lines 55 to 68, inclusive, and  
insert in lieu thereof the following: "following: (1) Murder";  
in line 72, strike out "(3)" and insert "(2)"; in line 75, strike  
out "(4)" and insert "(3)"; in line 78, strike out "(5)" and  
insert "(4)"; and in line 81, strike out "(6)" and insert "(5)"

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**House Amendment Schedule L  
LCO No. 7635**

**Ruled Out of Order  
April 11, 1973**

**Amendment**

Calendar No. ....

Schedule L .....

File No. 291 .....

Subst.

~~Senate House Bill~~ } No. 8297  
~~Senate House Joint Resolution~~ }

Senate, ..... 19

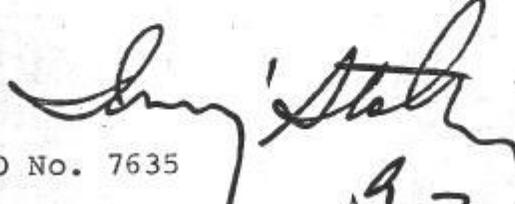
ADOPTED

Clerk.

H. of R., ..... 19

ADOPTED

Clerk.



LCO No. 7635

*Ruled  
End of Order 9  
Absent + fine law 3  
See H01 Manual  
Mason*

LCO No. 7635

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Offered by Rep. Stolberg, 93rd Dist.

8

To Subst. House Bill No. 8297 File No. 291 Calendar No.

9

Add section 16 as follows:

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Sec. 16. Section 54-100 of the general statutes is repealed  
and the following is substituted in lieu thereof: The method of  
inflicting the punishment of death shall be by electrocution  
PERFORMED BY THE GOVERNOR. [The warden of the State Prison is  
directed to appoint a suitable person to perform the duty of  
executing sentences of the court requiring the infliction of the  
death penalty. Such person shall receive, for such duty, such  
compensation as is determined by the directors of the State  
Prison.] When any person is sentenced by any court of this state  
having competent jurisdiction to be electrocuted, he shall,  
within twenty days after final sentence, be conveyed to the  
[State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS, and  
such punishment shall be inflicted only within the walls of said  
[prison] INSTITUTION in Somers, within an enclosure to be  
prepared for that purpose under the direction of the warden of  
the [State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS  
and the board of directors thereof, which enclosure shall be so  
constructed as to exclude public view. Besides the warden or  
deputy warden and such number of guards as he thinks necessary,  
the following persons may be present at the execution, but no  
others: The sheriff of the county in which the prisoner was tried  
and convicted, the board of directors, the physician of the  
[State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS, the  
clergyman in attendance upon the prisoner and such other persons,  
adult males, as the prisoner may designate, not exceeding three  
in number, representatives of not more than five newspapers in  
the county where the crime was committed, and one reporter for  
each of the daily newspapers published in the city of Hartford.

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**House Amendment Schedule M  
LCO No. 7484**

**Ruled Out of Order  
April 11, 1973**

Amendment

Calendar No. ....

Schedule M .....

File No. 291 .....

SUBSTITUTE

~~Senate~~ House Bill } No. 8297  
~~Senate House Joint Resolution~~ }

H. of R., ..... 19

ADOPTED

Clerk.

Senate, ..... 19

ADOPTED

Clerk.

*Emily Sturges*  
93

*News  
about ruling  
in accord with  
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Offered by REP. STOLBERG, 93RD DIST.

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To Substitute House Bill No. 8297 File No. 291 Calendar No.

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Add section 16 as follows:

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Sec. 16. Section 54-100 of the general statutes is repealed and the following is substituted in lieu thereof: The method of inflicting the punishment of death shall be by electrocution. The warden of the [State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS, is directed to appoint a suitable person to perform the duty of executing sentences of the court requiring the infliction of the death penalty. Such person shall receive, for such duty, such compensation as is determined by the directors of the [State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS. When any person is sentenced by any court of this state having competent jurisdiction to be electrocuted, he shall, within twenty days after final sentence, be conveyed to the [State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS, and such punishment shall be inflicted only within the walls of said [prison] INSTITUTION in Somers, within an enclosure to be prepared for that purpose under the direction of the warden of the [State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS, and the board of directors thereof, which enclosure shall be so constructed as to exclude public view. SUCH EXECUTION SHALL BE OPEN TO THE PUBLIC AND SHALL BE TELEVISED FOR PUBLIC VIEWING. Besides the warden or deputy warden and such number of guards as he thinks necessary, the following persons [may] SHALL be present at the execution [, but no others]: The sheriff of the county in which the prisoner was tried and convicted, the board of directors, the physician of the [State Prison] CONNECTICUT CORRECTIONAL INSTITUTION, SOMERS, the clergyman in attendance upon the prisoner and such other persons, adult males, as the prisoner may designate, [not exceeding three in number,] representatives of not [more] FEWER than five newspapers in the

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county where the crime was committed, and one reporter for each of the daily newspapers published in the city of Hartford.

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**Transcript of Senate debate  
April 19, 1973**

**16 Senate Proceedings, Part 4,  
1973 Session, pp. 1861-1978.**

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Chair, inform the members of the Circle. Senator Rome.

SENATOR ROME:

May we then, Mr. President, proceed.

THE CHAIR:

Will the Clerk please call the bill which is the Order of the Day.

THE CLERK:

Page One of the Calendar under Order of the Day. Calendar No. 444, File No. 291. Substitute for House Bill No. 8297--an act concerning the death penalty. Favorable report of the Committee on Judiciary. The Clerk has two amendments, Mr. President.

THE CHAIR:

Senator Guidera, before proceeding, the Chair would like to welcome back Senator Scalo. We are sorry that your professional office was burned out. We're glad you weren't in it. We need you. Welcome back. Senator George Guidera from Weston.

SENATOR GUIDERA:

Mr. President, before I begin, may I just confirm that it is permissible with you that I leave my jacket off during the debate today.

THE CHAIR:

Well if you're feeling the heat of the debate, perhaps it's desirable that you leave your jacket off, and as long as the T.V. doesn't show down in Fairfield County, none of your supporters will know anyway...

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SENATOR GUIDERA:

Thank you, Mr. President.

THE CHAIR:

...that you appeared in that stylish red shirt.

SENATOR GUIDERA:

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

THE CHAIR:

The question is on acceptance of the Joint Committee's favorable report and passage of the Bill. Will you remark.

SENATOR GUIDERA:

Yes, Mr. President. Mr. President, substitute for House Bill 8297, File 291...

THE CHAIR:

Excuse me, Senator, for our listening audience of this significant debate, we are now debating the possible return of capital punishment to the State of Connecticut and the lead-off batter for the proponent is Senator George Guidera, an attorney from Weston who is the Senate Chairman of the Judiciary Committee. Senator Guidera.

SENATOR GUIDERA:

Thank you, Mr. President. Substitute House Bill 8297, File No. 291, is a product of more than three months of intensive study by the Joint Judiciary Committee. The Judiciary Committee has studied this matter very, very closely and through executive

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session which was, in fact, not closed to the public but open to the public, we have recommended to the Senate and the House of Representatives the passage of this Bill. Mr. President, if I may, and if the members will bear with me, I would like to go through the Bill and outline its essential terms. The Bill essentially sets up a two-step procedure. Step No. 1 would be the finding of guilt in the Commission of Selected Crimes which have been labeled capital felonies. Even if a defendant were found guilty of one of the crimes specified, there would be a second step which is a special hearing to determine whether the sentence shall be life imprisonment or in fact the death penalty. Those crimes which are listed as capital felonies in the Bill are contained in Section Three on Page Two in your files. Not all murders are contained within the Section. Those crimes which are capital felonies include, first: murder of a state policeman, municipal police officer, county detective, sheriff or deputy sheriff, a constable performing criminal law enforcement duties, a special policeman, a corrections official authorized to make arrests in a correctional facility and a fireman--and all of whom must be acting within the scope of their duties at the time of the murder; second: murder by a defendant who is hired to commit the same for pecuniary gain or murder committed by one who is hired by the defendant to commit the same for pecuniary gain--this is the hired assassin; third: murder committed by one who has previously been convicted of intentional murder or murder committed

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in the course of the commission of a felony; fourth: murder committed by one who was, at the time of the commission of the murder, under a sentence of life imprisonment; fifth: murder by a kidnapper of a kidnapped person during the course of the kidnapping or before such person is able to return or be returned to safety; sixth: the illegal sale for gain of cocaine, heroin or methadone to a person who dies as a direct result of the use by him of such cocaine, heroin or methadone provided such seller was not, at the time of such sale, a drug dependent person. It might be well, Mr. President, to delineate for the members present those crimes which were in the original House Bill 8297 which the Judiciary Committee deleted, first: murder of another person by lying in wait--that is the traditional ground--the traditional capital felony in many many states. Lying in wait is, in essence, skulking in the bushes, planning and murdering somebody as he comes by; second: we also deleted murder in the course of commission or attempted commission of a felony by one who had previously been convicted of the same felony; third: we also deleted murder committed in the course of the illegal seizure or attempted seizure of control of a commercial aircraft, train or commercial motor vehicle. Mr. President, Section Four of the Bill is, in my opinion, not only equally as important as Section Three, but actually much more important because it provides that even if there is a conviction of one of the crimes specified in Section Three; that is, a finding of guilt of one of the crimes specified

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in the Bill, there would have to be a second step to determine whether the death penalty would be imposed or not. The hearing on this second step would be--could be, one: before the jury which determined the defendant's guilt or a jury impaneled for the purpose of such hearing--it would be another jury, if: A. the defendant was convicted upon a plea--his own plea of guilty; B. the defendant was convicted after a trial before three judges instead of a jury; or if the jury which determined the defendant's guilt has been discharged by the court, that is, the judge, for good cause; or the defendant would be tried before the court, that is, the judge, on motion of the defendant and with approval of the judge and consent of the state's attorney. Such a jury or judge, as the case may be, would return a special verdict setting forth its findings as to whether or not there existed certain mitigating and/or aggravating circumstances. If the judge or jury finds, one: that there are one or more mitigating circumstances and no aggravating circumstances, the death penalty could not be imposed. If the jury finds that there are no mitigating circumstances and no aggravating circumstances, the death penalty could not be imposed. Only where there are no mitigating circumstances and there are one or more aggravating circumstances would the death penalty be mandatorily imposed. Because this is such an important Section, I would like to go through, for the members of the Circle, what the mitigating circumstances are and what the aggravating circumstances are. The mitigating circumstances include: that at the

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time the offense for which the defendant has been already found guilty, one: he was under the age of eighteen; or, two: that his mental capacity was significantly impaired or his ability to conform his conduct to the requirements of law was significantly impaired but not so impaired in either case as to constitute a defense to the prosecution; or, another mitigating circumstances would be: he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution; or a fourth mitigating circumstance would be: he was criminally liable for the offense which was committed by another but his participation in such offense was relatively minor although not so minor as to constitute a defense to prosecution; or, a fifth mitigating circumstance would be: he could not reasonably have foreseen that his conduct in the course of commission of the offense of which he has been convicted would cause or would create a grave risk of causing death to another. Those circumstances which are regarded as aggravating and which the jury would also have to determine would include: one: the defendant committed the murder during the commission or attempted commission or flight from a felony and he had previously been convicted of the same felony; or, two: the defendant committed the murder after having been convicted of two or more state offenses or two or more federal offenses or one or more state offenses and one or more federal offenses for each of which a penalty of more than one year may be imposed. And may I remark for those who are not

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attorneys that a penalty which involves a sentence of more than one year is termed and defined a felony. Those which are for less than one year are misdemeanors--which offenses were committed on different occasions and which involve the infliction of serious bodily injury upon another person; or, another aggravating circumstance would be: three: the defendant committed the offense and in such commission knowingly created a grave risk of death to another person in addition to the victim of the offense; or, four: the defendant committed the offense in an especially highness, cruel or depraved manner; or, five: the defendant procured the commission of the offense by payment or promise of payment of anything of pecuniary value; or, sixth and last: the defendant committed the offense as consideration for the receipt or in expectation of the receipt of anything of pecuniary value. Essentially, Mr. President, what happens under Step Two is that if there is nothing good to say about a defendant who has already been convicted of the crime, then the individual would receive the death penalty. And I'll hasten to add at this point that there will be very few people who will receive the death penalty under the Bill as written. These are the essential terms of the Bill. I think it's important to try to visualize some of the cases which are not capital felonies--not capital felonies--and therefore would not receive the death penalty, under the Bill as written and in your file. First: any person who committed a crime of passion would not get the death penalty. Second, anyone who

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committed a murder during the commission of a felony; for example, the individual who goes into a gas station or a liquor store, commits a burglary, and on his way out the door turns and shoots the owner or the employee, he would not receive the death penalty. Anyone who committed mass murders, committed multiple murders, over a period of a day or a couple of days, would not get the death penalty under this Bill. The only crimes which have been designated as capital felonies are those in which there is a high degree of deterrence likely-- the lifer who attempts to escape from prison, the roof top sniper who fires on firemen in the performance of their duties, the bank robber or the liquor store holdup man who kills a policeman who attempts to foil his plans--the deputy sheriff who is transporting a prisoner, the murderer who has already been convicted of one murder, the kidnapper, who when paid his ransom or when denied it, arbitrarily and senselessly chooses to kill the kidnapped, usually a child. The Bill also imposes the death penalty upon two classes of criminals who have no regard for human life and for whom personally I have no regard; No. One: the hired assassin, the hired gunman, No. Two: the non-addict hard drug seller where the user of the drug dies as a result of its use. I think, Mr. President, that the first responsibility of the State and thus the criminal law is to provide protection for law abiding citizens in their life and property. Those who have committed particularly highness crimes should also not be permitted to do so again. As I said in the beginning, the Committee

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has thoroughly investigated this matter and come up with a bill that we think the majority of the members of the House and the majority of the members of the Senate can support. It is essentially a bill which had a great deal of thought by the members of the Committee--members who are not like members of some other state legislatures desirous of going out and making everything from blowing your nose on the street corner to mass murders a capital felony. No doubt, someone will stand here today and recite to you what was said in Furman vs. Georgia. If anybody can stand up here and tell me what was said in Furman vs. Georgia, I'd be delighted to be enlightened. The fact of the matter is that only two justices, Justice Brennan and Justice Marshall, felt that the death penalty was per ~~say~~<sup>se</sup> unconstitutional in the Supreme Court case of Furman vs. Georgia. We can speculate as to what the Supreme Court would do with the Bill that is before us today should we pass it and should it be signed by the Governor. You can speculate one way and you can speculate the other way; and I could take another two or three hours and stand here and recite to you verbatim the comments and the opinions of the various judges--all of whom--all nine of whom--wrote separate opinions, either dissenting or concurring, and you'd be totally confused as to what would happen should the Bill before us today become law and should the matter arrive at the door step of the Supreme Court. The concept of mitigating and aggravating circumstances is not one that the Judiciary Committee of Connecticut can claim sole pride and

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authorship of. Senator McClellan, United States Senator McClellan, his staff, the staff of the Judiciary Committee in Washington D. C., the Attorney General's Office of the United States have come up with these circumstances which should be a guide to juries. Essentially, my reading of Furman vs. Georgia is that if a jury without any direction from the legislative branch or any direction in the law can, upon its own whim, either impose or not impose the death penalty, and either impose or not impose a life sentence, then that is unconstitutional and that is what Furman vs. Georgia says. The mitigating and aggravating circumstances which are outlined in this Bill which have received great thought not only by the Judiciary Committee in Connecticut but by the Judiciary Committee in Washington D. C. I think will prove to make the Bill constitutional and will set a guideline for the jury so that there is no doubt as to how they should approach the subject of the sentence. Someone will undoubtedly stand up here and read off figures to you showing that the death penalty is not a deterrent in 41 different crimes. Well, we agree in part on the Judiciary Committee. We don't think that anyone is going to be deterred by the penalty of death when, after he finds out that his or her spouse is involved in an extra-marital relationship, he goes out and kills the two individuals involved. People like that are not going to be deterred and the Judiciary Committee knows that. We haven't included this in the Bill. We know that somebody who goes on a rampage, kills one person today, five tomorrow and six the

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next day is not going to be deterred by the death penalty because that person is, in my opinion, completely deranged and insane. We have selected those crimes in which there is a deterrent value to impose the death penalty. The fact of the matter is there are no hard figures on what is--whether or not capital punishment is a deterrent one way or the other. I simply ask you to consider this: how many murders have not been committed that we don't know about because the death penalty exists. Mr. President, rather than taking any more time to explain the Bill and to expound upon the position of the Joint Committee on the Judiciary at this point, I would like to temporarily rest my case and allow others to speak and then at some later point come back. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Before proceeding, may the Chair respectfully make a suggestion which is not a binding order--that if there are a half dozen or so proponents, that they now speak in order and then Senator Lenge will present the opponents and then we could bounce back and forth. We don't normally follow that procedure but I believe that it would be helpful to get all the arguments marshalled on one side and then on the other. However, each one may conduct himself or herself as he sees fit. Senator Page.

SENATOR PAGE:

Mr. President, I merely had a question. Would you like me to wait?

THE CHAIR:

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No, you can proceed with the question. That would be good order.

SENATOR PAGE:

Through you to Senator Guidera. You stated for a mitigating factor something unforeseen in the action. In the case of a kidnapping, what would happen if the kidnapper had an automobile accident on his way to or from the scene? Would you explain that to me, please.

THE CHAIR:

Senator Guidera, if you will.

SENATOR GUIDERA:

Mr. President, that very question was considered by the Judiciary Committee and there is no question in my mind anyone who understands the English language could reasonably understand that a judge would regard that sort of a circumstance as completely unforeseen as creating a grave risk. Taking a person, putting him in your car, driving him some place and then having him killed in an automobile accident, whether it's your fault or not, is certainly not creating a grave risk. Now let me say there may be one exception to that and that would be that if the kidnapper is being pursued by the police and travels at a high rate of speed with the kidnapped in flight from arrest, that may be a--the deaths resulting to the kidnapped from an automobile accident may very well be a foreseen circumstance and that would be for the jury to determine--twelve reasonable human beings.

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THE CHAIR:

Senator Cutillo.

SENATOR CUTILLO:

Mr. President, I also rise to ask a question.

THE CHAIR:

You may proceed.

SENATOR CUTILLO:

If I understand the Committee Chairman's presentation, he mentioned that crimes of passion, mass murder and robbery were not included; that is, the individual who robs a liquor store, goes out, turns around and shoots the clerk or the owner of the store, this would not be included, but, if this individual were to kill a policeman in the course of trying to apprehend him, this would be included. I'd like to ask, therefore, it just doesn't make sense to me. And you may have gone over it, I beg your indulgence, would you please explain to me why this would not be included.

THE CHAIR:

Senator Guidera, if you will.

SENATOR GUIDERA:

Mr. President, we're trying to protect, in this Bill, those individuals who are out on the street day in and day out. who are trying to protect our lives and property including the policeman, the deputy sheriffs, the constables, the local police, the state police and so forth and so on; and the Judiciary Committee simply felt that they should receive the protection that they are really

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due. And so we have specified them. I admit that it is arguable that we should have included also individuals who turn around and shoot the employee or owner of a liquor store or gas station. For no reason whatsoever, they could make their escape with the money that they've gotten. We simply decided as a matter of policy and as a matter of protection to those who are out there day in and day out that it was the best approach to protect them and to leave it at that.

THE CHAIR:

Will you remark further. Senator Winthrop Smith.

SENATOR WINTHROP SMITH:

Mr. President, through you to Senator Guidera, I also have a question. Why was not the individual who plants a bomb in a public building or in a plane or the individual who commits a murder in the attempting skyjacking of a plane. Why were not these individuals included?

THE CHAIR:

Senator Guidera.

SENATOR GUIDERA:

Through you, Mr. President. As far as skyjacking is concerned, we feel that the matter is taken care of completely by Federal Statute. As far as the individual who places a bomb in a public building or not in a public building--in somebody's car or places it in a--in somebody's private residence--it goes off and it kills somebody--again, as a matter of public policy, we

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have decided that the death penalty should not apply across the board but we intended to protect those who for one reason or another are out there on the street daily putting their lives on the line for relatively little amounts of money taking abuse from everybody under the sun.

THE CHAIR:

Remark further. Senator Zajac and Senator Alfano next.

SENATOR ZAJAC:

Mr. President, I rise to support this measure. And it is precisely my concern for human life that has resulted in my adopting this position. The value of human life is not lessened but it is rather protected by the retention of the death penalty as a form of punishment in crime prevention. Crime is now the number one concern of the residents of our nation's cities. Fear of crime grips Americans in all parts of the nation affecting life styles and daily patterns of existence. A Gallop survey conducted between December 8th and 11th of 1972 showed that four persons in ten are afraid to walk alone at night in their neighborhoods. This percentage is as high as six in ten among women. In addition, one person in six nationally does not even feel safe in his or her home at night. These statistics are frightening. Something must be done to curb the appalling high crime rate. The answer, Mr. President, lies in more effective means of detection with strong prosecution and a greater certainty of punishment upon conviction. In my mind, there are two basic reasons why the death penalty is

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required. The first and primary reason, Mr. President, is simply one of justice. The question is, has the accused earned the penalty that is to be inflicted. The crimes that we have here designated as meriting capital punishment are the most extreme offenses against the victim and against the community. These offenses cannot be rationalized no matter how hard we try to do so. They are of such an extreme nature that imprisonment is not a sufficient response to them. I think we are wholly justified in making certain that these people do not have the chance to commit the same crime again. The argument against capital punishment in the interest of human life is often used. Mr. President, this argument is more apparent than real. I am convinced that the abolition of the death penalty would result in a much greater loss of human life than its retention. There are numerous cases on record in which criminals have escaped the death penalty for previous murders and have gone on to commit others. Likewise, there are numerous cases of prison inmates who have killed their guards and other inmates knowing they have nothing to lose. The worst that can happen to them is continued occupancy in the same institution. Let's consider just three cases. The first concerns one Charles Fitzgerald, who, some 60 years ago, killed a deputy sheriff and was given a 100 year sentence. After serving only 11 years, he was paroled and proceeded to murder a California policeman.

SENATOR (Not Recognized):

Excuse me. I can't hear.

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THE CHAIR:

Thank you. Senator Zajac.

SENATOR ZAJAC:

And after serving only 11 years, he was paroled and proceeded to murder a California policeman. Sentenced to life imprisonment for this second murder of a law enforcement official, he was nevertheless granted parole in December 1971. In 1952, Allen Pruet was arrested for the knife slaying of a newsstand operator and sentenced to life imprisonment. In 1965, while in prison, he fatally stabbed a prison doctor and an assistant prison superintendent but was found not guilty by reason of insanity. In 1968 his original conviction was overturned on a technicality by the Virginia Supreme Court, forcing a re-trial for this 1952 murder. He was again found guilty but instead of life imprisonment, his sentence was reduced to 20 years. Since he had already served 18 years and he had some time off for good behavior, he was released. One year later, he murdered two men in Spartenberg, South Carolina. On March 17, 1971, J. Edgar Hoover told a congressional subcommittee that 19 of the killers responsible for the murder of a policeman during the '60's had been previously convicted of murder. These are just three of the many similar, shocking instances where innocent people have died at the hands of previously convicted murderers. Mr. President, I cannot help but think that we have lost sight of the true humanitarian purposes of the law. The execution of the convicted murderer must be weighed against the

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loss of his victims' lives and of the possible victims of potential murderers. Haven't we lost sight of the human rights, of the civil rights and indeed the constitutional rights of the individual victim? Isn't he being deprived of his right to equal protection under the laws of the state and the nation? What about those prison guards who face lifers who have absolutely nothing to loose? What about those policemen who go and work their hearts out in often very dangerous situations and who are increasingly victimized by vicious attacks upon their members. What about the deliberate, planned, brutal murder of an eight-month pregnant girl against her pleas for life of her child. Many criminals escape punishment, Mr. President. None of their victims ever do. Our people are saying that the criminal justice system has broken down, and they are right. It has failed in its duty to hold an individual responsible for his actions and is allowing too many persons to escape the punishment they so richly deserve. By failing to make the criminal pay for his crime, we are encouraging him to think that crime can and will pay. This brings me to this second reason why the death penalty is required; and that is, for its deterrent effect. We have all heard the arguments against the death penalty's effectiveness as a deterrent, but these arguments suffer from fundamental weakness. Most of the data used to support these arguments have been collected during a period when the death penalty has not been adequately utilized as a deterrent technique and when the legal difficulties in actually executing a condemned

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criminal have been almost insurmountable. This piece of legislation will once again establish the death penalty as an effective deterrent. At the point when a crime is committed, the individual about to do so will know that the law will respond resolutely and swiftly with the ultimate penalty of death. We are, then, acting to make the incentive not to commit the crime stronger than the incentive to commit it. Let me give you an example. If the penalty for murder and kidnapping are the same, life imprisonment with parole, it would be to the kidnapper's absolute advantage to kill the kidnapped person in order to facilitate his escape. Making the murder of the kidnapped person punishable by death, on the other hand, serves to discourage his killing the innocent victim. The commission of a crime is influenced by many factors and there are undoubtedly some criminal acts which no penalty system can prevent, but it is totally unreasonable to assert that the certainty of deaths, should one commit a certain crime, does not and never will discourage its occurrence. I should like to note here, Mr. President, that there are no statistics showing a clear deterrent effective for any penalty. Does this or should this lead us to believe that punishment has absolutely no validity as a deterrent force and should be abolished as a corrective device? I think not, Mr. President. I, for one, believe that a ticket for speeding or loss of license is a deterrent for reoccurrence of that minor offense. Who here in this Circle has not driven a little slower perhaps after a warning or a threat of loss of

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license. If we are going to apply these methods which serve as the greatest deterrent, we are going to have to continue to suit the penalty to the offense. This concept is well established in our entire criminal justice system. If it were not, we would simply have a uniform penalty--say a \$10.00 fine for all offenses. But we do not. We have varied penalties because we feel that crimes of different extremity should be punished accordingly. I feel very strongly, Mr. President, that by failing to execute a criminal convicted--a criminal convicted of these most awful offenses--we are failing to add the deterrent that might spare the indefinite number of innocent, human lives from prospective murderers. Capital punishment is sanctioned by long usage. It is rooted firmly in the history of this Country and in our cultural and religious heritage. I submit that a very clear and large majority of the American people support capital punishment. According to the New York Times dated November 23, 1972, I quote, "Public support for capital punishment is currently at its highest point in nearly two decades." In California, the electorate by referendum on November 7 voted by a two-to-one margin in favor of the restoration of the death penalty. In a poll I personally conducted in my own District, an overwhelming 71 percent of those responding favored reinstatement of the death penalty for certain extreme crimes. Of this 71 percent, 77 percent indicated their support for imposing the death penalty on convicted murderers. The meaning of this is loud and clear. The citizens of this

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Country and this State support capital punishment, and I, as an elected representative, will fulfill their wishes with my vote and do not take it upon myself to thwart those known wishes of the people. In conclusion, I would like to reject the notion that is prevalent and among certain segments of our population that a society is free and civilized only to the extent that it is permissive. The fact is that in order to attain the values of peace and order, it may be necessary to be selectively harsh. There is a definite distinction between permissiveness that is directed toward desirable social ends and that which is not. We must become aware of the problems facing a modern, urban society and deal with them rather than in the utopian society where the rights and difficulties of individual criminals can be placed above the safety of the community. We must regard crimes as individual, destructive acts and deal with them accordingly. Mr. President, I've carefully considered this sensitive matter before us. I have been forced to dismiss the arguments against capital punishment. I urge passage of the Bill.

THE CHAIR:

Thank you, Senator. The distinguished Minority Leader, Senator Charles Alfano from Suffield.

SENATOR ALFANO:

Mr. President, members of the Circle, I, too, rise in support of this Bill. In reaching a decision on this Bill, before us perhaps is one of the most difficult tasks I've had during the

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session. In fact, I have been advised by some of my colleagues to my left that I should not make any comments in connection with this Bill until such time as I have heard them uphold their arguments in opposition to the Bill. I'm sure that most of us in this Circle have already made our mind up; our feelings on this are pretty strong either one way or the other, and I doubt very much that the arguments that we hear on the floor today are going to change many opinions. However, I feel fairly strongly that this particular legislation is something that is proper. The question has been raised as to whether or not the death penalty is indeed a deterrent to the commission of a crime of murder. I know we'll hear people today who will give us statistics indicating that studies show that it is not a deterrent. However, it may not be a deterrent in every situation but if it's a deterrent just once and it saves just one innocent victim and one person has continued to exist on this earth, then I think that this Bill deserves the support of all of us. Sure and I may not be a deterrent in every instance. But if it saves one life, it deters one person from committing murder, then this Bill certainly is a proper one for us to have on our books in the State of Connecticut. There also has been even a greater amount of impassioned argument over the morality of the death penalty. Does the State, in fact, have the right to take the life of an individual who has taken life. My answer to that question is not a blanket yes. Murder is a crime of passion. It is also a crime under most circumstances--

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is committed without malice or forethought by a person who is either temporarily or permanently suffering under severe mental disorder. Under these circumstances, those which are most frequent, I do not believe the State has the right either morally or legally to take life. However, the legislation before us also deals with the question of morality and it deals with the pre-meditated murder in very specific cases. We have for too long been overzealous in our efforts to protect our criminal. We consume with protection the rights of the criminal. We often overlook the rights of the victim. Unfortunately, the victim of murder no longer sees that his rights are protected. How about the family of the victim--the family of the police officer or the guard? They certainly deserve consideration and I know that if any of us happened to be the parent of the victim that we would not be completely satisfied to see the accused get off with life imprisonment. It becomes the responsibility of the State to see that justice is served. I shall not belabor the specific instances as outlined in this Bill under whether the death penalty may be imposed. We have all read them. We all know what they are. I believe that murder as outlined in Section Three is justifiably punishable by death. I believe that the State has the right and the responsibility to see that justice is done. I also believe that this Bill takes a step toward putting justice into perspective; a step toward the recognition that victims of violent crime do indeed have as many rights as the criminal, and for that reason,

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I will vote yes on this Bill. And I think the very specific example which has already been mentioned is the person who has life in prison, the person who's got nothing to look forward to. And why shouldn't this person make every effort to escape--even if it involves taking the life of a prison guard? What has he got to loose? He gets life in prison again, and he's back in prison again and why not try and escape a second time and take the life of another prison guard? What does he have to loose? Nothing! He gets life again. This, I think, is an excellent example why it is important that we reinstate the death penalty among our laws in the State of Connecticut. Thank you.

THE CHAIR:

Question is on passage. Will you remark further. Senator Nicholas Lenge from West Hartford. Senator Guidera, did you wish to be recognized--Oh you were just exercising. Thank you.  
Senator Lenge.

SENATOR LENGE:

Mr. President. Mr. President, I rise to oppose this Bill. In this Bill today, we come to grips with a most solemn decision in a most solemn week--a week when millions upon millions of American citizens and citizens throughout the world in contemplation of Holy Week and the week of Passover contemplate the very fundamentals that are reflected in this decision today--the issues of individual and social justice, the issue of individual and social conscience, the very element of life and death. And I

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disagree with the Minority Leader because the gravity of that decision is reflected by the unusual situation today, Mr. President, and emphasized by the fact that though normally we assemble in these seats in this Circle to sanctify or in effect ratify or formalize a previous decision, today we truly come to make a decision. And there are some among us who have not, in fact, as yet, made that decision. This issue is approached on two bases--first, the issue of homicide--homicide as a basic, fundamental question and in this issue, homicide by the State. The second issue raised by virtue of the first issue, Mr. President; is that homicide justifiable? I answer the question, no. To pronounce death, for man to pronounce death, alone or collectively, is wrong--is not justified. In fact, some reference has been made to the course of history in pronouncing that awful judgment; and whenever and wherever from the earliest day it was pronounced, it shook the very foundation of man's world--man's sense of conscience--the State indulging in killing. The first time it was pronounced in ancient Greece, the average citizen ran, running to his Gods, so outraged, so moved, so desperate by the awful decision. And since that day, man has been repeating that pact of conscience. The moment of culmination is something that we all seek to avoid. Contemplate how we finalize and carry out that decision. When is it done? In the stealth and dark of night in secret before a few professional witnesses who report in euphemistic terms and toll in detached language the occurrence--the hangman who wears a hood

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so that he will not be known--the firing squad, one among them with one blank pellet so none will know who in fact committed the deed--the last meal ritual--the responses to the cries for clemency, and executive clemency, pardons--the whole route--so that the cup may pass. And today, you heard it again. The Legislature's Judiciary Committee moved from the mandatory death penalty to the concept of mitigating and aggravating circumstances--one more response that I have to that inherent feeling that I have already described. And the Chairman of the Committee says, "in analyzing the underlying Bill, very few will receive the death penalty under this Bill." --another effort to assuage conscience. One of the proponents has said and has cited the exceptions, the nothing-to-loose argument. Like all of the arguments involved in this issue, that argument has two sides. I pose to you the question, the awful, terrible crime of rape, with death staring the rapist, would he contemplate what it would mean to him to kill his victim, to destroy the one witness? Does it not cut two ways? Would he not, then, tend to eliminate the witness? What about the criminal at bay when we are seeking to have him put down his arm? What is he to loose if he faces death? And then, the argument of Senator Alfann. He says that if there be one deterrence that that in and of itself is justification for the underlying Bill. If we must approach this, Mr. President, in terms of exceptions, then let us consider all of the exceptions. If collective man kills one innocent victim by the electric charge of the chair or in the gallows,

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then that very fact is justification for rejection of the Bill. And that, in fact, has happened. And the argument, we don't know how many have been deterred--would we advance the underlying Bill on an unknown statistic, a conjecture? Contemplate the real facts. Take, for example, the recent action of a society, a large society, perhaps most akin in terms of its nature, its impacted population, its dealing with crimes of the type considered here; and that is, England. There, the death penalty was erased for a five-year period. There, that nation, in its Parliament, this past--during this month--reconsidered the question of re-establishing the death penalty. And the argument was as charged as is ours. It was as sweeping as is ours, and it contemplated all of the arguments, pro and con. But there was an experience. And that experience spelled out to the members of Parliament that the basic, broad question being wrong, the statistical experience being what it is, that it was not justifiable to restore the death penalty. And they, the Parliament of England, rejected it. There have been referenda in this Country--Oregon--where the people by their vote rejected the death penalty. There are two sides to every argument advanced. And our neighbor, Rhode Island, and our neighbor to the north, Canada, do not have the death penalty. And the importance of it all is that if the penalty of death is a deterrence to crime, then the problem should be a simple one. The fact and the truth of the matter is that it just is not a deterrent. The truth of the matter is that in those states which do not have the death

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penalty, the incidence and occurrence of crime is no greater; in fact, in some instances, is less than in those states that have, and in those countries, that have the death penalty. Mr. President, the death penalty proceeds on fear. A society that is punitive, a society that is vengeful, a society that bases its sense of justice on fear is not a strong society. Our strength lies in our contemplation of justice, our understanding of what the underlying causes of crime are and addressing ourselves to those causes. The whole argument assumes certain premises that are wrong. This is an attempt to reach conscience. This is an attempt to say, if we have the death penalty it will solve all issues. This, Mr. President, is not the case. All of the facts before us, the deterrent argument, the administration of justice, the protection of society argument, the security and the sanctity of human life are all before us in one sweep in the contemplation of this decision. Without a firm idea of himself, without a firm idea of ourselves as a legislative body and the purposes of life and the purposes of our law, we cannot reach the right decisions or the solution to the control of crime. Man's life can be destroyed by himself. We contribute to that destruction when we in effect degrade human life for no justifying purpose. We admit defeat. We say we cannot address ourselves to the fundamental causes of crime and that even though we know by statistics that this is not a deterrent, we would allow ourselves to believe that it is because it makes us feel better. That, Mr. President, is

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not enough of a reason. I am not going to get into the philosophical arguments. Each and every one of you can contemplate it yourself. The mystery of life, the survival of society, the purpose of man, how we treat each other, how we understand our temporary respite here at this point in time and place are all things that are brought before us--the desperate criminal, his life of isolation, his feeling of rejection from society. I'm not going to get involved into the question of social causes in saying that he is not the cause or he has not committed the crime, society has, but a society that does not understand the word and would reject the criminal, one among us, a brother, a sister, with the sweeping judgment of no pity which is no conscience, no understanding, no mercy, no justice, is vengeance in this context and vengeance it is and in fact that has been the underlying theme that has been advanced here today. And by the use of the word of one of the proponents who says, and the key word is, "Let him pay for his crime." Mr. President, there are many aspects to this underlying Bill, there are those among us who stand opposed to it. We will address ourselves in sequence now to the specific areas of that Bill and then, at the conclusion of that, I would, Mr. President, offer, for the consideration of this Circle, an amendment which I think is properly addressed to the issues with which we struggle, and I think, will be an answer. The death penalty has been proved from time immemorial to not be successful in the achievement of its stated purpose.

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The exaltation of man--the fact that we are not, for one minute, though we stand here representing collective man, we cannot, we will not add one more ounce of power which was not within anyone of us separately. The Almighty Creator is the final arbiter of life and death. And the pronouncement of the death penalty, the denial of life, the taking of life one minute sooner, that one extra minute that may be salvation, that one extra minute that may bring this prisoner to a true confrontation with life and what he stands for as an example to his fellow man, the rehabilitation process, should not be denied to that individual or to society through us. The death penalty is wrong. There is no case that stands for justifiable homicide by the State. Mr. President...

THE CHAIR:

Thank you, Senator.

SENATOR LENGE:

...I yield to Senator Fauliso.

THE CHAIR:

Senator Joseph Fauliso from Hartford.

SENATOR FAULISO:

Mr. President, this is a matter of a great magnitude. It is one of the most important issues confronting us as Legislators. We hold the awesome power of legislating death over our fellow man. This proposition deserves and demands our complete attention and our full deliberation. At the outset, let me submit some general considerations. Those who proposed the death penalty

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have the burden of proving that it is necessary for the protection of society. I submit the proponents cannot sustain that burden. The overwhelming evidence and the moral and legal principles destroy the basis for the re-introduction of the death penalty in any form for any crime. Capital punishment is not a deterrent. It puts innocent people beyond the hope of redress. It is discriminatory in its application, and brutalizing in its affect. It has nothing to do with today's mounting crime statistics. Premeditation is an essential element of first degree murder. Legal executions are the most thoroughly premeditated kind of killing. In one breath, we condemn murders outside the law; then, in another breath, we approve it within the law. Capital punishment is basically punitive. It is a violent solution to an act of violence. Capital punishment is incapable of achieving the desired objectives. In the final analysis, it must be considered a policy of abject failure--a step of retrogression in a society which takes pride for the high degree of intellectual attainment. What are the legal considerations of the Bill before us? The instant Bill is constitutionally defective. In my opinion, a death penalty bill is constitutionally impermissible. In the light of the language of Furman vs. Georgia as enunciated by the majority of the justices, particularly Justices Brennan, Douglas and Marshall, Justice Stuart in his concurrent opinion declared of the Eighth and Fourteenth Amdnements cannot tolerate the infliction of a death sentence under legal systems that permit this unique

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penalty to be so wantonly and so freakishly imposed. The Bill before us fails to remedy the arbitrary application of the law which was the critical element in Furman vs. Georgia decision. Dean Pollock, the distinguished scholar and the former dean of Yale Law School made a study of this Bill. He concluded by saying, I quote, "The conclusion that this Bill is unconstitutional is not a criticism of the drafters, it is rather a recognition that they were undertaking a constitutional impossibility. Maintaining the idea of a death sentence while insuring that it would in practice almost never be imposed, the result necessarily is not merely the death sentence would be rarities but that those rarities would occur wantonly and freakishly and hence, unconstitutionally." Mr. President, I am mindful of the host of violent crimes that have engulfed this nation. I am mindful of the exasperations and the frustrations of our society. No responsible citizen can ignore this grave, social problem. What is at issue is the most adequate, equitable manner in which to deal with them. I would urge that we consider alternatives to capital punishment--alternatives that would express society's outrage in reaction to violent crime and provide protection from repeated criminal acts. Such alternatives do exist in the form of extended and even lifelong imprisonment of criminals. But these sanctions must be imposed with no discrimination between the rich and the poor, with no distinction between whether the person convicted of crime belongs to the majority or to the minority of our society. We do not fault the argument that

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the punishment must be just and fit the crime nor do we minimize society's legitimate need to be protected from criminal acts. What concerns us, however, is to see the issue of capital punishment considered in isolation from the question of reform of judicial and penal system, in isolation from the climate of violence glamorized in film and media, and in isolation from the social conditions which breed crime and violence. Our society is desperately in need of an affirmation of the value and dignity of human life--and that means human life, Mr. President, from its very inception to its expiration. It means respect for life through many other avenues such as the struggle against poverty, injustice, racism, hunger and social oppression. But while striving to enhance the value of life, let us not advocate recourse to the taking of life--even that of a criminal. Not only is our humanity at issue here, our belief that God alone gives and sustains life suggests that He alone properly takes it. This is unfortunately not a conclusion that has become general or compelling to all. But it is one which should give us pause. In short, Mr. President, I am suggesting that in a society in which violence and killing is too easily resorted to as means to criminal ends, the State should not sanction the use of violence and killing to achieve society's ends. We must provide for the public safety but not at the sacrifice of the values we seek to protect. If the death penalty, Mr. President, were to be put on trial metaphorically and charge would be an

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unconstitutionally cruel testimony by legions of wretches who have suffered it and by those who have written against it might well open the proceedings. They would testify that the death penalty assails the dignity of man--it's inhuman and violates all the standards of decency. We would introduce endless testimony of man's inhumanity to man, of inequality, of injustice, discrimination and oppression. We would place into the record the Bible, the very source of truth and inspiration. We would call on Moses to hold up high the Tablet given to him by God. And he would pronounce aloud that Commandment "Thou Shalt Not Kill". And then, culminating this evidence, Mr. President, we would hear the voice of the Master, Jesus of Nazareth, and Sir, we should ponder His words in our hearts. Consider His public ministry a ministry of love, of passion, of mercy, of forgiveness. Recall to mind those words "As we judge, so shall we judge. As we show mercy, we shall receive mercy." And how can we forget His teaching on the subject of revenge when He proclaimed "You have heard that it was said an eye for an eye and a tooth for a tooth. But now I tell you, do not take revenge on someone who does you wrong. If anyone slaps you on the right cheek, let him slap you on the left cheek." And how can we forget His expression of love when He announced "You have heard it said love your friends, hate your enemies, but now I tell you love your enemies and pray for those who persecute you so that you will become the sons of Your Father in Heaven for He makes this sun to shine on bad and good people alike and gives

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rain to those who do good and who do evil. And let us for a moment meditate on the words and the prayer which the Lord Himself gave us, "Forgive us our trespasses as we forgive those who trespass against us." And let us consider His utterances on charity and brotherly love and recall these words, "Do unto others as you would have them do unto you. What you will have done for these, the least of my brethren, you will have done unto Me, and then, a new Commandment I give unto you, love one another as I have loved you." Mr. President, these are truths, these are principles that are everlasting. These are principles that govern human conduct--that are guidelines for our society. This, Mr. President, is testimony of love, kindness, compassion, forgiveness and mercy. And from Bethlehem's crib to Calvary's cross, each breath that Christ drew--every heartbeat that throbbed in his human heart--was an assertion of love for man. And this love He manifested until his final breath when he uttered "Forgive them for they know not what they do." Tomorrow, Mr. President, the world pauses and commemorates the passion and the crucifixion of Christ. The call of the cross is the call for love of God, for love of fellow man; and, Mr. President, at this time, at this moment in history, it's very important that we learn the lessons of the Bible. Mr. President, for me, I think it is very important, and I implore this Chamber to consider the reverence and sanctity of

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life. And, Mr. President, I believe with all my heart and with all of my sole and with all of my mind that God alone has dominion over me and over all of us. Mr. President, I believe it was David who said, "If I were to be judged, I would rather be judged by God and not by man." Sir, I place my trust in God. I would rather be judged by Him and not by man. I yield to Senator Zisk.

THE CHAIR:

Senator Zisk from New Britain.

SENATOR ZISK:

Mr. President, this is perhaps the most important Bill that I will ever vote on while I am a member of this Senate. And at the outset, let me say that I'm sure that I speak for every member of this Senate when I express my own personal view--that I grieve for the victims of crime, murder--no less than any other member of this Senate. But I am concerned about this Bill because I feel that it will not serve the purposes which its proponents believe that it will. Mr. President, I believe with all my heart that it has no deterrent value in the area of homicide, unjustifiable taking of life. I've listened this morning to the proponents and I have not heard a positive, constructive suggestion made for this Bill except that, as has been stated, there is a need to be selectively harsh or that this Bill will in fact result in very few people coming under the penalty of death. I agree with the remarks of Senator Alfano and Senator Lenge. These are not reasons for passing a bill of this type. I will

try to limit myself, Mr. President, to one specific area of objection that I have and it deals with a portion of the six types of acts which are called different kinds of murder, those which of necessity must therefore be punishable by death. I ask the question, why aren't crimes such as we read about every day like a mother taking the life of her infant included in this Bill or a seventeen-year-old who kills his mother--why isn't he going to be subjected to the death penalty? Why are we differentiating in some stilted, unreal manner? Mr. President, I think these six capital acts is a recognition by the proponents of this Bill that the taking of a life is a barbarous act and it is an attempt on their part for some type of justification for barbarism. I also refer to Section Four, Sub-Sections F and G of the Act which are set out as being some type of final test which will guarantee that justice will be maintained. Proponents in effect are saying to me and to every member of this Circle that we are being just. And I say what they are doing is really soothing their conscience. As I said, I will try to limit my remarks to only one Section here of the Bill which I find particularly objectionable; and that is Section Three, Sub-Section Six which I note is not described as a murder but rather, and I'm quoting, "the illegal sale for gain of cocaine, heroin or methadone to a person who dies as a direct result of the use by him of such cocaine, heroin or methadone provided such seller was not at the time of such sale a drug dependent person." The purport of this Section is to stop the

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pushers or jugglers, as they're called. I think it rather reveals, Mr. President, how naive this Section really is and how naive or uninformed its supporters are. It is an unrealistic, an unrealism demonstrated by two illustrations. I would, with your permission, Mr. President, like to quote very briefly from licit and illicit drugs a work by Edward Bricker recently published in which he cites the results of surveys conducted by the International Journal of the addictions which was published in March of 1969. In any area of the sales organization for drugs, narcotic drug--unlawful drug sales--it breaks down roughly into five categories: the importer and the wholesaler who really never ever see the heroin or the narcotic drug but who are merely middlemen who reap a tremendous profit. And lest it be misunderstood that I am somehow condoning this activity, I'm merely trying to illustrate how naive this Section of this Bill is. I, as much as anyone, regard the problem of drug addiction that is rampant in our Country now as one of the most crucial which we must address ourselves to. But this Bill is not--and this Section--is not going to help one whit in resolving that problem. To continue, the sales of narcotics is conducted by importers or wholesalers who never even see the drugs in many cases and then by dealers who are the first person to take some type of risk but who it is usually agreed by law enforcement authorities and medical people are not themselves involved with pushing drugs. That's reserved for the jugglers as they're called. And I would like to quote just briefly, Mr.

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President, from Page 98 of this work, "The next distributor is known as a juggler; in popular parlance, a pusher, who is the seller from whom the average street addict buys. He is always a user." It's rather straightforward language--he is always a user. Consequently, Mr. President, I believe that this Act is not going to--this Bill is not going to get at the person or persons or syndicates who are in fact crippling the youth of our society but will waste itself on the rocks, so to speak, of the pushers who themselves are drug dependent persons and therefore are exempted from the death penalty under this Act. Secondly, I would like to comment on the portion of this Sub-Section that deals with the burden of proof that this Act will have to require in prosecutions under Sub-Section Six of Section Three. As I understand it, if there is a death resulting from an overdose or from the sale of a narcotic then that alone will be grounds for the death penalty. Mr. President, I submit that this is a fact in life that is incapable of proof by today's medical standards and again I quote from this work on Page 105 in which the author states as follows: "Further, in cases where an addict has died following an injection of heroin and the syringe he used is found nearby or still sticking in his vein, the contents of the syringe can be examined to determine whether it contained heroin of exceptional strength and there are other ways of establishing at least a prima facie case for overdose diagnosis. A conscientious search of the United States medical literature throughout recent

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decades has failed to turn up a single scientific paper reporting that heroin overdose as established by these or other reasonable methods of determining overdose is in fact a cause of death among American heroin addicts." Mr. President, quite simply, that means that we have set up in this Bill, and if it's enacted into law, a burden of proof that cannot be reached by this State; a nullity, if you will, in the Act--no force, and one which I doubt can stand the test of constitutionality. This Bill--this Section--will not stop drug pushers. In all likelihood, it will not be capable of being sustained in the Courts. Call to mind in reading this Section of the Bill the fact that it is generally agreed that most drug addicts require the sources of three or four or more pushers or jugglers to maintain their daily habit. The question I have is, and I'm not asking of any specific Senator, but how would we establish which pusher was the one who sold the fatal dosage to this victim? I think we're opening up a can of worms here that will result in a real cragmire for the Courts in the State of Connecticut. Mr. President, as usual in my experience at least, I have found that the constituents in my District speak more eloquently and more clearly and more to the point than most legislators do, and with your permission, Mr. President, I would just like to quote briefly from a letter of one of my constituents.

THE CHAIR:

Please do so, Senator.

SENATOR ZISK:

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Thank you. "I want to urge you to oppose Bill 8297 restoring the death penalty. The idea of a society sentencing a human being to die is abhorrent to man's nature. Even the Supreme Court has labeled it cruel and unusual punishment. There are no statistics which have proven it has lessened crime. The states which have abolished it do not have any more crime than those which still maintain it. Furthermore, it is never the wealthy or the powerful at the top who are sentenced to death, it is usually the little guy or the poor, uneducated, or perhaps the even mentally unbalanced who suffer. Capital punishment is simply a system of revenge. It is a way of government to relinquish its responsibility to get to the roots of our problems and to make attempts to solve them. Instead it offers more repressive, severe punishment!" She quotes, Mr. President, "Let the individual and the state keep their hands clean of blood." Mr. President, in addition to what I feel are technical objections to this Bill, and to the sentiment of the vast majority of the people whom I have contacted and who have contacted me, I also have the basic objection to the death penalty. No one--you or I or any member of this Circle, individually or collectively--no one--the State of Connecticut--no one may take a life. God gives life. Only God can take it away. Thank you. I yield to Senator Lieberman.

THE CHAIR:

Senator Lieberman from New Haven.

SENATOR LIEBERMAN:

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Thank you, Mr. President. Mr. President, I rise to oppose the Bill. Before explaining my opposition to the Bill, I want to say to my fellow members of the Circle, those who have spoken thus far and presumably those who will follow, how impressed I am with their eloquence and their sincerity. I was thinking as I was sitting here that these are the moments that make service in this body such an honor and such a source of satisfaction and I appreciate the fact that no one is taking this decision lightly. Quite clearly, all of us, regardless of which side we are on, are struggling to do what we believe is right. Mr. President, when in June of last year the Supreme Court agreed that the way in which the death penalty is imposed and carried out in the United States violates the Eighth Amendment prohibition against cruel and unusual punishment, many of us hoped that this would be the beginning of total abolition of capital punishment in the United States. Unfortunately, just the reverse has occurred. Since the Court specifically invalidated only those statutes which allow a discretionary death penalty, state legislatures and the national administration have rushed to fill the alleged void with proposals for mandatory death penalties such as the one before us today. These, I believe, are regressive, ineffective and ultimately unconstitutional. Why is this happening? Why, in a country which holds human life to be sacred and believes that every human being possesses dignity and worth, is there such haste to pass laws which license the state deliberately to put some of

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its members to death? The answer I suspect is that we are afraid. Street crime is a part of our daily lives. Revolting crimes such as mass murders and hijackings occur with frightening regularity. People have the feeling they are not safe anywhere anymore. It goes without saying that we are all anxious to find some deterrent to these crimes, but I suggest that we should be just as anxious that in our fear and frustration we do not respond with more emotion than logic, we do not give a breast-beating legislative response to public emotion by passing a law which is unconstitutional, which multiplies the defects of our previous statute, and which will not help in deterring the crimes which our constituents--which the public--are really concerned about. In considering the proposal before us today, I believe we must ask ourselves at least three questions. Does it deter crime? Is it moral? And, is it constitutional? It is to the last question that I specifically want to address myself. In the Supreme Court case of last year known as Furman vs. Georgia, two of the Justices, Justice Marshall and Justice Brennan, and to a certain extent, Justice Douglas as well, held that any and all capital punishment statutes are unconstitutional. The decision of the Court turned on the opinion of the two other concurring Justices who agreed on what might be called the narrow grounds of unconstitutionality that lay in the sentencing procedure itself--that was Justice White and Justice Stewart. They concluded that since there was no meaningful basis for distinguishing the few cases in which

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death is imposed from the many in which it is not, death tends to be meted out in such a random and selective fashion as to constitute no more than a lottery system. Justice Stuart said in his opinion "these death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual for of all the people convicted of rapes and murders in 1967 and 1968, many just as reprehensible as the ones before the Court then, the petitioners are among a capriciously selected random handful upon whom the death sentence has in fact been imposed. I simply conclude that the Eighth and Fourteenth Amendments cannot tolerate the infliction of the sentence of death under legal systems that permit this unique penalty to be so wantonly and freakishly imposed." The Bill before us today has been devised I presume in the hope that changing the sentencing procedure by providing a mandatory death penalty for conviction of certain enumerated crimes and carefully defining the circumstances under which judges and juries must act before imposing death will result in legislation able to withstand the scrutiny of the United States Supreme Court. This attempt, I respectfully suggest, has failed and has failed badly. All of the five concurring Justices in the Furman case based their decision in some part on the discrimination possible at every step of the capital sentencing process. Wherever judges or juries have the power to find differently for people in equal circumstances in capital cases, that death penalty will be unconstitutional. This Bill, I believe, is

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loaded with opportunities for just such discriminations. It is true that discrimination is a necessary evil of our criminal justice system simply because we depend on the very fallible judgment of human beings and we cannot obviously reject all penalties for everything just because they are sometimes unfairly imposed. But death is different. The death penalty differs not only in degree from all other forms of capital punishment but as Justice Stuart says, in kind. It is unique, he continues in its total irrevocability. Therefore, any inherent unfairness in the sentencing procedure is so serious as to make it unconstitutional. In the Bill before us, the possibilities for discrimination which troubled the Supreme Court in the Furman case have been multiplied by the addition of a whole separate proceeding and by critical circumstantial criteria which are only vaguely defined. Let's look at the process by which a person can be condemned to death under this Bill. In the first instance, he must be charged--that is a point of discretion for the prosecutor. The prosecutor must decide whether or not to fit the accused into one of the enumerated capital crimes in this Bill, and there is enough vagueness in the enumeration of those crimes and their description to make it a highly discretionary act on the part of the prosecutor. Second, the defendant must be found guilty by the judge or the jury and this, too, is a highly discretionary act. In fact, the judge and jury are allowed under Section One-B of this Bill even if the accused is charged of a capital felony

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to lower that charge to a lesser crime. If the defendant is convicted of a capital felony and if the State thinks there were any aggravating factors, a separate hearing will then be held. At the hearing, if the jury or the Court finds there is an aggravating factor, and those have been enumerated at some length already, plus the absence of any mitigating factor, and those too have been enumerated, it will then sentence the defendant to death. Surely this establishes a process which is so filled with opportunities to condemn one human being to death and find favorably for another in the same circumstances that it cannot withstand the Court test of the Furman case. The situation is made increasingly fallible by the vagueness of some of the aggravating and mitigating factors so called. I fully respect the apparent intention of the Judiciary Committee in writing in these factors which I assume was to protect all but the worst, most dangerous criminal from the ultimate sanction of death, but I feel in their attempt to take a terrible penalty and make it, one might use the word humane, they have built a crazy "house of cards" which cannot stand. How do we fairly impose, and evenly impose, some of the standards in this Bill? What, to quote the Bill, is a significantly impaired mental capacity that is not impaired enough to legally constitute a defense? By what standards do we determine that a crime is committed in "an especially highness, cruel or depraved manner"? When would a murderer not be under "an unusual and substantial

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duress"? Don't these factors bring us, and the others in the Bill, bring us back to the crux of the problem which is that death will be unevenly imposed without rational and inflexible standards, and if the defendant has been sentenced to death, of course the selection process then begins anew as it has in the past. Who will be executed and who will be released after appeals? Or who will be pardoned? Establishing inflexible rules for the jury or Court in capital cases would really seem to be an impossible task. Justice Harlan in a previous decision said that all such efforts have been uniformly unsuccessful. The Court in that case added "the infinite variety of cases and facets to each case would make general standards either meaningless or a statement of the obvious that no jury would need." And even if endless guidelines were established, I believe it would not overcome the discriminatory possibilities inherent in every step of the criminal justice process. And these discriminatory possibilities while acceptable in other criminal cases are unacceptable in death cases in the aftermath of the Furman decision. I want to end by quoting from Justice White who again decided on the narrow ground. He said that the imposition and execution of the death penalty are obviously cruel in the dictionary sense but the penalty has not been considered cruel and unusual punishment in the constitutional sense because it was thought justified by the social ends it was deemed to serve. At the moment that it ceases realistically to further these purposes, the emerging question is whether its

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imposition in such circumstances would violate the Eighth Amendment. It is my view that its imposition would then be the pointless and needless extinction of life with only marginal contributions to any discernible social or public purposes. A penalty with such negligible returns to the State would be patently excessive and cruel and unusual punishment violative of the Eighth Amendment. It is my judgment, Justice White concluded, that this point has been reached with respect to capital punishment as it is presently administered under the Statutes. Mr. President, I do not believe that the proposed legislation could withstand the constitutional test. I believe further than it will rarely if ever be applied. But if it is applied, it will be applied without reason or sense. For these reasons as well as others cited by all the opponents, I oppose this Bill. I yield now to Senator Wilbur Smith.

THE CHAIR:

Thank you, Senator Lieberman. Senator Smith, Wilbur Smith.

SENATOR WILBUR SMITH:

Mr. President, I would happily yield to any proponent of the measure if they'd be kind enough to yield and return to me when they've finished.

THE CHAIR:

Senator Ciarlone. Senator Wilbur Smith, apparently no one else wishes to speak at this time.

SENATOR WILBUR SMITH:

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Mr. President, members of the Circle, I rise in opposition to this measure and I would imagine I would phrase--preface my remarks by using the words of Senator Zajac who supports it. It is my concern for human life that I assume this position. Once again, Mr. President, members of the Circle, we are all faced with an issue that brings us here to attempt to legislate arguments based on the concepts of justice, morality, deterrence, constitutional law. Now those people who are riding on the fence of indecision will cite these conceptual words as being relevant only to philosophers or theologians. It is a fact that every society is based on justice, morality and law, and it is not the philosophers nor the theologians who in reality implement policy. It is us, the elected officials. So today we are confronted with the task of continuing to make our State, the State of Connecticut, a just and humane place to live in. The death penalty is uncivilized, and it is a hangover of the process of uncivilized vengeance. The death penalty is uncivilized and throws us back into the practices of the dark ages. It does appear to me, Mr. President, and members of the Senate, that a society which has the benefit of a collective conscience and a religious and historical awareness of its goals must strive to set an example in conduct. And if we are to indeed adhere to our most sacred pretensions we cannot kill. We cannot endorse killing for whatever cause or for whatever reason as a calculated policy of the State. Our State must act on its own instincts and as a result of its long journey must continue with

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the rest of humanity toward achieving a higher civilized status. Now while we consider the question of the death penalty as capital punishment, we ought to bear in mind the civilized trend in our society and throughout the world. Connecticut has not carried out the death penalty since 1960. It is difficult to see how the execution of any person will serve the betterment of society. The issue of (inaudible) has never been more appropriate. The major issue in the death penalty controversy can be reduced to two questions. One: Is justice served by the use of the death penalty, and Two: Is the death penalty a deterrent to those who might commit crime. The first question is for the most part religious and philosophical. It's a value judgment. And the second question is empirical or a factual determination. Those who believe strongly one way or the other about the answer to the first question will be less persuaded by the answer to the second. Concept of justice is argued on many grounds but when we mandate legislation concerning the death penalty, all fringe arguments are cast aside. We're here today to debate the merits of the use of the death penalty and the merits that it holds as a useful and meaningful deterrent. The primary argument that we are confronted with is the whether or not society should ever sanction the taking of life. That the death penalty is a deterrent, maybe not to all killers but at least to some, and if it saves even a single life we are in favor of it, that argument is a myth. If capital punishment were a deterrent, states that

have abolished capital punishment would have a higher homicide rate. But they do not. Similar states with similar racial, religious and economic characteristics show no significant difference in homicide rates. The rate in Michigan in 1970, for example, was 8.9 percent for 100,000 people and there is no capital punishment. For Illinois, the death penalty has been retained and the murder rate in 1970 was 9.6 percent per 100,000. Now individuals who kill in moments of passion or anger are not deterred by the death penalty. For the criminally insane, the existence of capital punishment can become the cause of a homicide as they seek suicide and martyrdom. The shooting attack on the San Fernando Valley Police Station in September of 1972 by an individual who wanted to commit suicide is an example of this. And also there is the idea that life imprisonment to a potential killer is a more severe deterrent than capital punishment. Another myth is that the legal system guarantees a fair trial for every person regardless of wealth, education or race; that lawyers are provided and thus there is certainty that capital punishment will be fairly applied to all who are convicted. This is simply not true. And it is the basis of the United States Supreme Court's action in outlawing capital punishment because of the erratic and infrequent way in which it is imposed by juries and judges. Statistical reports indicate that there have been over 350,000 homicides in this Country since 1930. But since 1930, there have been only 3,334 executions for murder; and whether or not a

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convicted murderer is executed for a crime depends on where the crime took place and how laws were administered in particular areas. Mainly, however, it depends on who the individuals are. Murderers who can hire the most qualified attorneys are seldom sentenced to death. Individuals who come from higher stratas of society are not treated by judges and juries in the same manner as individuals with lower socio-economical standards. The rate of execution, Mr. President and members of this Circle, for non-whites, for example, far exceed the proportion of capital crimes committed by such defendants. A point which we must not forget in debating the merits of the death penalty is the obvious legal ramifications. To attempt to use this punishment would be the submission of an unconstituted act. Our entire jurisprudence is based on the concept that discretion is performed at every level so to call the death sentence "mandatory" is to mislead what does in fact happen. When a prosecutor decides what it is to charge a defendant for, he is making a determination initially whether a certain behavior falls within the category of what we still call a mandatory type or lesser offense. Now at that very point, a distinction is made between conduct of one person and the conduct of another which defies rational determination, rational distinction and rational differentiation. A prosecutor is (inaudible) in too many instances to subject the legal process to plea by. I am not advocating a different role for the prosecution for that might be his role, or accept it in any event, but he should make

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those distinctions less applicable. A grand jury makes a determination as to what to indict for. The grand jury in turn makes distinctions which none of us could explain why one person is charged with what this State would call a capital offense, and what others are charged on the same trial behavior, we would call a class problem. It's been argued before that making our corrections systems work is part of a task of making our society work. The lust for revenge may never be entirely stifled but it will be muted when most law abiding citizens come to believe that what happens after sentencing can in fact change a person's life. That represents a greater challenge and more meaningful beginning than ending the battle with the inhumane and barbaric treatment of execution, for our society could never achieve any heights of greatness when we act in such an uncivilized manner. Mr. President and members of the Circle, Senator Fauliso has appropriately called to our attention the overwhelming significance of tomorrow, and I need not belabor that issue and repeat again anything what he has said. But we work today, Mr. President, be casting a shadow over the meaning of that occasion; and if we do, then we in the same breath condemn the act of killing while justifying the very act committed by us in the name of society. Senator Lenge pointed out the remarks of Senator Alfano that if this saves one life, then the Bill is justifiable. Senator Lenge pointed out that the argument on the other side was that if we take one human life which is innocent, then that should condemn the Bill. But Mr. President and

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members of this Circle, we put ourselves in a position of gaining retribution over someone who takes the life of someone else. But when it is found too late that we in the name of society has taken the life--the innocent life--of a human being, then who is there to condemn us, to find us guilty for what we call a mistake in error or a mistake in judgment. If we can discount that, then we can discount all human life.

THE CHAIR:

Thank you, Senator. Question is on passage. Will you remark further. Senator Costello from Madison.

SENATOR COSTELLO:

Mr. President, members of the Circle, it is frequent and customary for deliberative bodies such as ours to occasionally observe a moment of silence; and I ask you if you observed a few minutes ago a moment of silence which to me indicated where this Bill is headed which perhaps was more eloquent than all of the words and rhetoric that we have heard so far. And that moment of silence occurred when my colleague, Senator Wilbur Smith, invited the proponents of this Bill to stand and be heard if they wished to be heard after four opponents of the Bill had been heard. And there was silence. And I think that silence indicates the lack of enthusiasm with which the proponents present this Bill to us today. I think it indicates the lack of a public outcry for the restoration of the death penalty in the State of Connecticut. I believe the Judiciary Committee felt that it had some responsibility

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to bring before us the proposal for debate and consideration. But I sense a certain lack of zeal in their efforts. I certainly haven't received any human cry from my constituents. I haven't received a single letter requesting the restoration of the death penalty. I don't see anyone out in the corridors of this Capital twisting any arms or pawing at our sleeves or asking that we restore this very questionable penalty. The history of this Country in the last ten years demonstrates the reluctance on the part of governmental bodies and on the part of the public to restore the death penalty or to impose it or to carry it out even if it is in effect. And our Supreme Court very eloquently discussed this whole national attitude in the Georgia opinion. At the very best, there's an undercurrent of public fear and concern about the crime rate in our Country. I believe the people are truly apprehensive about the lack of enforcement of the laws that we now have on the books. And as I go to visit the various groups and the towns in my District, many of them are saying why don't we have people put in jail for selling drugs instead of getting suspended sentences. Why aren't the Courts tougher? And I share with them that concern and I would personally vote for stronger enforcement of our laws and I would urge our judges to do so and I would urge this body to memorialize our Courts to get tougher on crime. But the laws are on the books and those laws are for appropriate punishment in the event of crime but not for vengeance. I think most of us would agree that it's been clearly established by

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studies over the years that the death penalty is not a deterrent. Those who frequently evidence the desire--the return of the death penalty do so because they believe it will be a deterrent and because they are unaware of the conclusive studies to the contrary. So what do we do then? We sit down and we try to think of a list of crimes that are so outrageous and shocking that we feel the public would agree with us that the death penalty might be appropriate. And yet the list that is presented to us today contains a number of crimes wherein the death is accidental or surely not premeditated such as in an escape attempt where there is no premeditation as far as murder is concerned but only as far as the escape is concerned. And yet crime such as a torture death which to me would be the most painest of all where someone in cold blood tortures another person to death are not on this list; and I'm sure we could all sit down and come up with a list of crimes which would shock us at the moment of the commission of the crime to the point where we ourselves would cry out for the execution of the perpetrator of that crime. But I think in perspective after we sit and think about what led up to the commission of these crimes, if you have ever had the experience of participating in or observing a trial to the conclusion with the death penalty being imposed as I did as a young lawyer, and it was at that point in my career when I changed my opinion about the death penalty after a long and arduous trial seeing the impact on the family of the accused, the emotional impact on the accused himself, his penitence,

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the facts of the brutality of the crime were balanced off by what lies in store for the victim who is also the perpetrator. Life imprisonment is certainly a severe enough penalty to impose. It gives the person, however, some hope--hope not only that he can repent if not immediately at some later point in his life but also hope that he might accomplish some good on this earth before he leaves it. The death penalty removes any chance of that. So I would suggest to you that this Bill is a watered down and weak version of a death penalty provision. I don't think it is presented upon demand by the citizens of our State. I think that there is a lack of spirit behind this Bill. Yes, we need tougher Courts. We need punishment, but we do not need vengeance.

THE CHAIR:

Thank you, Senator. Senator Strada, I had recognition of Senator Hellier on my list from long ago. Is that correct, Senator Hellier? And then Senator Murphy--no--Senator Hellier, Strada and there is one over here that--Cutillo, in that order. Senator Hellier.

SENATOR HELLIER:

Thank you, Mr. President. There's no question certain highness crimes must have a severe penalty. Therefore, the question before us is what should this penalty be? It must be of sufficient harshness to be meaningful, and further, it some way must provide protection to our citizens. However, is the death penalty the right choice? I do not believe it is. First, the whole question

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of taking a life for whatever reason must be faced. As a legislator, passing a law which somebody else must carry out is an awesome responsibility. In regard to this Bill, would we, here in the Circle, be willing to personally carry out all, underlined, the steps including the final act resulting in death. We must individually answer these questions. This is further complicated by the realities of life due to the actions having to be taken by human beings, who unfortunately, have been known to make mistakes. Therefore, mistakes could be made in the human judgments during this entire Court process. We must also recognize that some people are more effective than others. This fact applies to lawyers specifically. And further, the more effective lawyers, in most cases, demand higher fees. Is it right that the life or death of an individual should be based to any degree on the economic position of the accused? This Bill would make it so. Weighing all the factors, both pro and con, over a number of months in preparation for today results in only one position which will satisfy my conscience. I must oppose the death penalty. Thank you, Mr. President.

THE CHAIR:

Senator Strada from Stamford.

SENATOR STRADA:

Mr. President, I do not rise at this point to speak on the merits of the Bill, but I do rise to disagree with the comments of Senator Costello. The mere fact that an individual Senator does

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not wish at this point in a debate to state his position does not mean at all that there is any lack of enthusiasm or lack of zeal as he puts it, or for that matter, even any lack of conviction. Senator Lenge asked me this morning whether my mind was completely foreclosed on this matter. And I told him it was not. He told me he had amendments, he wished to present them, and I choose to speak after I've heard the amendments. Thank you.

THE CHAIR:

Thank you, Sir. Senator Cutillo, Senator Ciarlone, Senator Scalo next, Petroni. Ciarlone.

SENATOR CIARLONE:

Thank you, Mr. President. I rise to oppose the Bill, Mr. President, (inaudible) Mr. President. We have before us a bill that I believe is in contradiction to the law of the land. The Supreme Court has stated that--stated rule that capital punishment is cruel and unusual. It is my position that the Supreme Court's decision is correct. It is also my belief that the American civilization had advanced to a point here that we have achieved understanding that the taking of a life is wrong whether it be premeditated or whether it be taken by a judge and a jury. I share the same concerns related to law and order and protection of our citizens. If I thought for a single moment that having a capital punishment statute on our books would offer better protection to our people, I would ask the members of this body to so support it, but the comments here this afternoon have certainly

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brought out that this is not the case. It is also certainly timely I feel that this Bill is being considered during the holy season of Easter. We all will be attending various houses of faith this weekend, seeking forgiveness and mercy. If God who gave us life is able to grant mercy and be forgiving, I believe the taking of a life should remain with God. I say to all of you here today, before you vote, consider, did God seek revenge on those who crucified Him? In closing I ask you all to...

THE CHAIR:

Hold a minute, Senator. Proceed.

SENATOR CIARLONE:

Thank you, Mr. President. In closing I urge you to consider our present civilization, our standard of living, our sophistication; and it is my belief that this legislation would not only be regressive, but it would be a throwback to the Romans. Thank you.

THE CHAIR:

Thank you for your usually succinct summary. Senator Scalo from Bridgeport.

SENATOR SCALO:

Mr. President, Mr. President, I rise to answer some of those statements that have been made earlier, the fact that this Bill will provide an opportunity for wealthy lawyers to become more wealthy or those people who are able to afford it, who are able to afford counsel, can take the benefits of expertise in that field and therefore defeat the intent of this Bill. I had the

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privilege of serving as a public defender in Superior Court, Fairfield County, and on that occasion, I had the opportunity to defend several people accused of murder. And I think that the sum pay that I received for one particular murder case in particular amounted to \$743.00--we figured it out. I think that the quality of service given to that defendant is evidenced by the fact that a not guilty verdict was returned; and this has happened in more than one occasion. And I think that the quality of defense in our public defender system is excellent. I know other people that are involved, and I don't feel that those comments are at all worthy of this body. But that is not the reason that I rose--chose to rise at this time. I speak in favor of the Bill. I think that the arguments made concerning social conscience are not particularly applicable. We have a situation where society as such can and does make its own determination as to what it will or will not do. I think that the logical extension of the social conscience argument is that society does not have the right to take any life. Society therefore does not have the right to defend itself. Society therefore does not have the right to declare war because that results in the taking of life. I think the logical progression of those statements would render civilized society as we know of today in a situation of complete and utter chaos and on the basis of the moral arguments presented, I reject them. As a deterrent to crime, there have been those people who say that there is no applicable statistic to prove it. I've spent many, many hours in Summers

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Prison, I've spent many, many hours with defendants accused of all manner of crime. And I'm firmly convinced that a strong penalty, and in this situation for capital offenses the death penalty, is a deterrent. I firmly believe that, and it's on that basis that I would cast my vote in favor of this Bill.

THE CHAIR:

Thank you, Senator Scalo. Senator Petroni from Ridgefield.

SENATOR PETRONI:

Mr. President and members of the Circle. The remarks of the gentleman from the 22nd reflect in part my feelings on this issue. Like all great issues, a moral one like this one today, involves emotion, sincerity and some doubt in all our minds. But like all great moral and constitutional issues in this Circle, it involves a human judgment. And when reading this Bill, there were two primary issues that came to my mind. The first one was, is the death penalty constitutional? And as all of you know, before the Furman case, for some 200 years, the Supreme Court of this land said it was constitutional. And as all of the lawyers in this Circle know, we have to accept the five-four decision in a legal sense. But in a moral sense today, I state here that I believe that the Court was wrong. And five-four doesn't make it right. I believe the Court was wrong because, in my judgment, they usurp the powers of this State and of all the sister states of this Country to determine here, in our respective legislatures, what the penalty should be. The second issue was whether the

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death penalty is a deterrent. I happen to believe that it is. I can't stand here and prove my case to you any more than the gentleman from the 5th can say categorically as he did that it is in fact a deterrent without being able to go into the minds of each man that may have been deterred at a given time to commit such a serious crime. This issue has been before this General Assembly since I've been here in '61. It was argued then, the same arguments I heard are here today. And I have to admit that in '61...

THE CHAIR:

Senator, is that 1861 or 1961?

SENATOR PETRONI:

1961. Thank you, Mr. President.

THE CHAIR:

Make the record state.

SENATOR PETRONI:

I know the Supreme Court goes 200 years, but I don't go back that far. I know that it's a hard issue because it involves the fundamental principal of life. But in 1965, I was a member of the Judiciary Committee where, I think it was Representative Satter, spent a great deal of time to devise a statute that the Court, in the Furman case, I believe, found to be unconstitutional. That statute allowed a defendant a trial in two parts: the first part, to determine the issue of guilt, and the second part of that trial was to determine the punishment. And that last judgment was up to a jury of his peers. All mitigating circumstances--everything

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possible in mitigation can be introduced. There is no longer those long harangues on evidentiary questions of law as to whether a certain bit of mitigating evidence can be introduced to support less than the death penalty. Every human being that the defendant ever knew can come in on that second part of that trial and say that there should be mercy--there should be and there is some mitigation. To me, that presents the fullest and fairest due process that I as a person can expect to receive or to give any other person, and I believe in due process as seriously and as strong as the gentlemen from the 1st. I believe that every person is entitled to it under law, but no five-four decision is going to convince me that we didn't have due process and that due process isn't here under this Bill. In my judgment, the fullest due process that we can find within the guidelines of Furman is clearly set forth in the language of this Bill. And for that reason, I am going to vote for it.

THE CHAIR:

Thank you, Senator. Senator Odegard from Manchester. Senator Cutillo is now back, from Waterbury and Senator DeNardis. Senator Cutillo, you had only stepped out momentarily. You should not lose your place.

SENATOR CUTILLO:

Thank you, Mr. President, and I apologize. Mr. President, I'd like to make it clear though at this particular point, just as an observation that I did not stand at the invitation of

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Senator Smith because of the guidelines you had set down prior to debate and I thought they were good rules; and I felt that I was going to adhere to them and therefore I did not stand--I think as many others who are proponents of this Bill also did. But we're here today of course to discuss a most important piece of legislation and I'd have to make this observation purely on my own, of course, that I don't think we're--certainly we're not talking about revenge--at least in my vote--as I support this legislation, I'm not for it because I feel I'm a vengeful individual and I don't necessarily feel this is a good piece of legislation because it's a deterrent. But as has been noted by Senator Guidera and Senator Alfano and several others, the degree of this Bill being a deterrent we'll never know, so there is a possibility that it will be a deterrent. I don't particularly like the Bill because it doesn't go far enough. It is only a half-way measure but compared to nothing, and what we have right now, it is something and I will therefore vote for it. But I feel that the Bill presents to us a measure of justice. Questions have been brought up by the opponents of the Bill where is justice and many other words such as the rights of the individual, condoning violence and being inhuman, peace, tranquility, God--I wonder what type of consideration these individuals have given the victims of the crime of murder, and should we, as a society, give consideration to the individual who has committed these murders. I feel that we need a law to give us some justice. We talked the other day about amnesty, about laws

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and rules. We have laws and rules that govern one man's feeling, either goods or monies, from another man. And yet, we talk about one man taking another man's life. We have no rules. And I believe therefore that there has to be some degree of justice to compensate for what we don't have right now. We have nothing right now, Mr. President and members of this Circle. I find it a most difficult position over the course of the last several weeks in trying to determine how my vote would go in this Circle and I feel as other proponents of the legislation have indicated that we must have, and I reiterate, a measure of justice. This is not a full measure of justice as this Bill is drawn up. But it is something and it will get my support, Mr. President.

THE CHAIR:

Thank you, Senator Odegard from Manchester. Are you there yet? No? I think you'll have to take another mike. I'm sorry, Senator. Not a very auspicious start. I think we ought to add conspiracy to this Bill.

SENATOR ODEGARD:

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

SENATOR ODEGARD:

Mr. President, I rise to support this Bill and propose the capital punishment without reservation. Mr. President, I had, in coming here, had intended to speak because of the debate--

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decided not to and not because--necessarily because of the amount of time that our debate was taking but because it became apparent to me, and I'm sure others have found this to be true, that to reflect on the reasons for passage or defeat of this Bill to appropriate degree would require tremendous amounts of time. There are things I did originally want to say that I think ought to be part of that debate and I do so with this one very severe reservation and that is that I think a thoughtful response to many of the objections to this Bill would require more time than is available in this Circle. Mr. President, government is fundamentally established to protect the persons and property of its citizens. All of our human experience tells us that the certainty and severity of punishment is truly a deterrent to criminal acts. Therefore, one might conclude that government has an obligation, not a right, but an obligation to provide punishment for crime and further I think it logically follows that the severity of the punishment ought to be commensurate with the severity of the crime. This Bill addresses itself to our State's response to particularly violent attacks upon our citizens. The opposition raises objection to capital punishment saying it is inappropriate and I wish to comment on just one of those objections--at least primarily on just one of those objections--what seems to be the popular presumption that capital punishment is not a deterrent. I believe it is. I believe it is patently ridiculous to say otherwise. I believe there are two and only two deterrents to criminal acts. One is

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our individual consciences as granted by God and the other is appropriate punishment as determined by the State. Statistical evidence is scarce and I understand it is subject on both sides to gross distortion. However, one of the most precise illustrations I can find is the effect of the Lindbergh law passed in March of 1932 after the kidnapping and murder of Charles Lindbergh's infant son. In 1931 alone there were 279 reported kidnaps in 501 United States cities and towns--279. The growth of kidnapping as an offense had exceeded--paralleled or exceeded the growth of organized crime during that area of prohibition between 1920 and '33 when it became apparent to the underworld that kidnapping of wealthy persons or their children for a heavy ransom offered all of the rewards of bank robbery with few of the risks. The Lindbergh law made it a Federal offense to transport a kidnapped victim across a state line and imposed heavy penalties, including death, at the jury's option at that time if the victim was not released unharmed. Following the passage of this law, kidnapping for a ransom in the United States declined rapidly. Specifically, in 1941, it was reported in the Attorney General's reports in all the years since the passage of the Lindbergh law, since 1932, the FBI had investigated only 156 cases of kidnapping and threatened kidnapping. Mr. President, I wish to read one further bit of testimony as written by Glenn King of the International Association of Chiefs of Police reflecting on some of the statistics that have been offered to us today, and I quote--I'll read quickly--"I think it is significant

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that during recent years we have seen a consistent reduction in the number of incidents of capital punishment and at the same time a very great increase in the number of criminal homicides. As an example, in 1950, 82 convicted felons were executed, a very great percentage of whom were guilty of the crime of homicide. During the same year, approximately 7,000 criminal homicides were reported. Ten years later, the number of executions dropped to 56, and the number of criminal homicides rose to about 9,000. Throughout the 1960's, we experienced a steady increase in the number of criminal homicides with about 14,000 recorded in 1969. During the same decade, we saw a practical end to the utilization of the death penalty. Since 1967, no executions have occurred in the United States and there were only two that year. In 1966, there was only one. I realize that a very great number of factors are involved in this extremely complex question and I do not suggest for a moment that the de facto end of the death penalty as a form of punishment is solely responsible for the burgeoning homicide rate in the United States, but I suggest it is equally unrealistic to assume that there is no relationship between the two. The danger of resorting solely to statistics in attempting to determine the best course of action to follow in something this complex is illustrated by some of the statistics cited to support its abolition. Opponents of capital punishment point to the criminal homicide rate in states which have legally banned the death penalty and claim support for their beliefs in the fact that the statistics in these

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states are lower than in some in which the capital punishment continues to be legally permissible. The questionable nature of such statistics becomes immediately apparent when we realize that capital punishment as a practical matter has ceased to exist in all states. When four years pass without a single state executing--executing the death penalty, then statistics comparing states with capital punishment and those without becomes ridiculous. We have, in effect, become a nation in which capital punishment does not exist. And I am convinced that part of the results of this has been a very great increase in capital punishments." Mr. President, is the certainty and severity of punishment a deterrent? I think certainly it is. The only question is how much of a deterrent it is. I do not wish to comment at any length on the other pronounced except objections--except to briefly recognize them. One is the call to conscience, to sympathy; and I would believe that those who are in favor of the death penalty have every bit as much conscience and sympathy for their fellow man as those who feel differently about it. We cannot, I think, though, exercise that conscience or sympathy in a vacuum, and I think what those advocates of the abolition of the death penalty are doing is to place themselves in the chamber of execution and thereby exercise their conscience. I believe at the same time they ought to treat that situation in the real world and consider what that execution is a response to. In other words, as you place yourselves in the execution chamber, place yourself also at the graveside of the victims and look around

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you in both cases and then exercise conscience. I believe the sympathy is real. I believe the reflections in conscience are sincere. I believe they are incredibly distorted and misplaced. Secondly, the constant reference to the Will of God. Mr. Chairman, without going--Mr. President, without going into great degree, many Biblical passages can be cited and reflected on to oppose that particular view ranging from the First Book of the Bible, Genesis, right on through the New Testament. The last, or one of the last points, is the question that we are reacting to fear. Mr. President, as an individual, I am not. I believe that capital punishment is an appropriate response of the State. At the same time, I find it hard to criticize those who fear savagery, and I suspect that there are times when fear keeps us alive. And last, Mr. President, this idea that the perpetrators of the crimes we're talking about are somehow society's fault, somehow we are all guilty, somehow we all did it; Mr. President, I reject that attitude. I believe it is clearly the criminal's fault and that all of us must be responsible for our individual actions--myself, for all of my actions. Everyone in this Circle, everyone in our society must be held responsible for their criminal actions. I vote for this Bill, Mr. President. I think it affects the fabric of society. I think the death penalty is an act of elemental justice--and elementary justice requires the passage of this Bill. Mr. President, one last comment, and that is to comment on the one argument that is brought forth that I find truly to have some merit and that is

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the argument with respect to the Supreme Court's decision and the ambiguity that surrounds it. I do not consciously want to vote in this Chamber ever for any bill that I know has been declared to be unconstitutional, no matter how my personal beliefs are. I do believe in the rule of law. I do believe that the Supreme Court's--and the Supreme Court's right--to interpret our Constitution, however wrong I might feel they are. I do not believe that this Bill is necessarily unconstitutional. I do recognize that there is a valid question. I believe the Supreme Court's ruling was the most confused, unsatisfactory and ill-reasoned opinion that I have recently seen; and as an example of that, Justice Brennan admitted the framers of the Constitution did not mean to outlaw the death penalty when they forbade cruel and unusual punishment. But he said that times had changed and the Constitution should change with the times. Mr. President, I find that to be a dangerous argument. I think it amounts to--is that a justice of the Supreme Court does not find himself bound by the Constitution of the United States when it instead believes that it ought to be made to mean whatever he thinks it ought to mean as times have changed. Mr. President, I support the Bill and urge the Circle to do likewise. Thank you.

THE CHAIR:

Senator DeNardis.

SENATOR DE NARDIS:

Mr. President, members of the Circle, I intend to be brief,

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exceedingly brief, especially considering the gravity and the complexity of the matter before us. We have all done a great deal of reading. We have all done a great deal of thinking about this matter, and this morning, we are doing a great deal of talking about it. As I sift through the arguments, both in the literature and in this Chamber, I come to the conclusion that we should not return to the system that we once had; and I can say it in approximately three or four statements of succinctness, and I hope, accuracy, in presenting my view against imposing the death penalty. Mr. President, I do not think we should return to a system that is designed to mete out justice in punishment yet falls upon only one person for every hundred criminal homicides. Mr. President, I do not think we should return to a system which is designed to deter yet is so shrouded in secrecy by virtue of Section Four of this Bill that the would-be murderer has no impression of the meaning. Mr. President, I do not think we should return to a system that is justified as protection to society yet states and nations without it are none the worse off. Mr. President, I do not believe we should return to a system that is claimed to protect and teach respect for human life while working, an example, while making an example, of taking a life. I oppose the Bill and I urge its defeat.

THE CHAIR:

Senator Gormley.

SENATOR GORMLEY:

Thank you. Mr. President, and members of the Circle, I cannot

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agree with the reasons given by the Senators opposing capital punishment, although they are certainly entitled to their opinion. A person commits a horrendous and deliberate crime of murder, takes the life of another. Some will say he should not suffer the death penalty. I can't agree with that. I favor this Bill and I will vote for it. I will cite one specific case of a brutal murder committed about four years ago which has, with other similar crimes of murder, influenced my thinking. The man committing this murder had been in state prison and was paroled. He was in the outside world only a short time, approximately two months, when he started again on his pursuit of crime. Early one morning, in his need for money, he assaulted and robbed one woman. Evidently, he didn't get enough money, so in his search for another victim, later that morning he came into the Town of Wilton, Connecticut. Under the pretense of wanting to use the phone to call a repairman to fix his car, he gained entrance into the home. I believe the name of the family, although this probably isn't very important, was Paight. Once inside the house, he proceeded to attack and viciously without murder--without mercy--killed Mrs. Paight, the mother of three small children. And at the same time, he stole whatever money was available. This man left three children motherless and a husband without a wife. Later after committing this brutal murder, he assaulted and robbed a third woman. I ask, Mr. President, and members of the Circle, who deserves sympathy and mercy here? The man who perpetrated these three crimes or the family where the three children were left without a mother and the husband who lost his wife? This

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man was arrested and brought to trial. He was given every consideration by the Court--something, by the way, that he didn't give his victims. He was found guilty by a jury of twelve and was sentenced to death by the presiding judge. His sentence was commuted to life imprisonment by the recent decision of the United States Supreme Court. Today, if you dare to say that you are for capital punishment, you leave yourself open to a charge that you are seeking revenge. I don't feel that I'm a revengeful person. But I feel that when a man breaks a law and commits a crime of murder and takes another one's life, he should be brought--arrested and brought to trial and given a fair trial which he certainly will receive in the State of Connecticut, and if found guilty, he should pay with his life. Mr. President, if this Bill is passed, and if it acts as a deterrent against any future crime of murder and saves even only one person from being murdered, it will be well worth being on our books in the State of Connecticut. I favor the Bill. Thank you, Mr. President.

SENATOR ROME:

Mr. President.

THE CHAIR:

Senator Rome.

SENATOR ROME:

Mr. President, could I just suggest by way of a recess that we recess after hearing the next speaker and we recess until 1:30. There will be food ordered for all the Senators and then we'll be

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here again at precisely at 1:30 to resume the debate if it's acceptable.

SENATOR GUIDERA:

Is that the Democratic Senators, too?

SENATOR ROME:

Yes Sir, as you would expect.

THE CHAIR:

Senator Guidera.

SENATOR GUIDERA:

Mr. President, Senator Costello said that there was a moment of silence. We had agreed in the Lieutenant Governor's Office prior to the beginning of this debate that the opponents to the Bill would speak after a few comments by the proponents. And for that reason, we did not respond at that time. But we wish to respond now and I wish to respond to some of the comments that have been made. I took alot of notes and perhaps there are a few questions that I've missed, but not intentionally so. It was said by one of the Senators that referenda in some states indicate the people are against it; Oregon, I believe, was the state that was mentioned. I cite to you the case of California which just reinstated the death penalty after having abolished it for several years. It has been said by many Senators, opponents to the measure, that the sentence should be imposed without reference to economic or racial status. You know, murders committed by economically poor and the racial minority groups generally fall into one single

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category and that is burglary and a death, a shooting, which occurs after the burglary or the larceny. Additionally, the mitigating and aggravating circumstances which we set up in this Bill do not in any place discriminate on the basis of economic condition or racial group. It was said by one of the Senators, an eye for an eye and a tooth for a tooth is outmoded, that the proper posture is turn the other cheek, essentially that God gives life and God takes it away, essentially that we are all children of God. I'd like to quote, Mr. President, read a statement made by J. Edgar Hoover some twelve years ago, when, in response to a statement that a one slayer was a child of God, he says, "Was not this small, blonde six-year-old girl a child of God? She was choked, beaten and raped by a sex fiend whose pregnant wife reportedly helped him lure the innocent child into his car and who sat and watched the assault on the screaming youngster. And when he completed his inhuman deed, the wife, herself bringing a life into the world, allegedly killed the child with several savage blows with a tire iron. The husband has been sentenced to death. Words and words and words may be written, but no plea in favor of the death penalty can be more horribly eloquent than the site of the battered, sexually assaulted body of this child--truly a child of God." The question has been asked why were we proponents of the Bill selective in the crimes. I should think that the opponents of this measure would be happy that we were selective. We were selective for the reason that I stated at the outset of my remarks

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about two hours ago. We wish to apply the death penalty in those cases in where there is some deterrent value. There was some comment about the drug pusher or drug salesman section of the Bill. Some were opposed to it because it was unrealistic and naive and that there was an overwhelming burden of proof on the State and that it was unconstitutional. On what basis it is unconstitutional I cannot perceive. And if it places an overwhelming burden on the State, then so be it. That's good. How do we prove which of these drug sellers sold the drug was the question. The answer is, the same way we prove anyone accused of a crime is guilty of that crime. Reference was made to the case of Furman vs. Georgia at length, and despite the predictions of the opponents of the Bill as to what would eventually come from the Supreme Court as a result of Furman vs. Georgia, I can find nothing in Furman vs. Georgia which indicates that the Bill as proposed in File 291 is unconstitutional. One of those Senators speaking on the case indicated that Furman vs. Georgia outlaws the random meting out of the death penalty as unconstitutional. Our Bill sets up the criteria by which a judge or a jury determines whether the sentence of death shall be imposed, and for that reason, meets the test of Furman vs. Georgia. It has been said that the Bill is loaded with opportunity for discrimination, the crimes enumerated are vague, there is too much discretion in the judge, the jury and the state's attorney,--what is significant impairment, what is highness, cruel and depraved, what is

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substantial address. Mr. President, we all understand the English language. For those of us who don't understand the English language, there is a little publication by the name of Black's Law Dictionary which has various definitions of words and phrases. Black's Law Dictionary quite clearly says that the word deprave means to defame, vilifying, exhibit contempt for. A depraved mind is an inherent deficiency of moral sense and rectitude equivalent to the statutory phrase, depravity of heart defined as the highest grade of malice. Cruelty in Black's is defined as the intentional and malicious infliction of physical suffering upon living creatures or the wanton, malicious and unnecessary infliction of pain upon the body, abusive treatment, outrage. ~~Highness~~ <sup>Heinous</sup> crime or <sup>incredible!</sup> highness activity is defined as hateful, hatefully bad, odious, atrocious, giving great offense, in short, outrage of the worst kind. And it has also been said by one of the opponents to the measure that only some 3,000 people have received the death penalty since 1930 (inaudible) be happier if only three people had received the death penalty since 1940. And the figures will show that the death penalty is imposed more often in the Southern states than it is in the Northern states, and the argument has been made time and time again that if it is so rarely used then why have it at all. The answer to that is that some crimes are so outrageous to society, are so highness, depraved, cruel, that the death penalty should be a resort to which society can go. It seems to me also that we've strayed from the Bill as written and I am afraid that some of the

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Senators in this room, I have the feeling that they've committed themselves far in advance having read the original Bill 8297 without waiting to see what Judiciary would come out with. I think that some of them who are opponents to the Bill quite possibly have second thoughts now about the Bill, but because they're committed, cannot now change their minds. We've strayed in this argument because we've talked about every kind of a murder that is conceivable on earth. The Bill does not pertain to every kind of a murder. It pertains to six very specific sections, six very specific crimes. And it has been said that the State, by taking a life, actually encourages individuals to take lives through the commission of murders. It's been said that we're in favor of giving the word to the judges that when they issue a sentence they make it stiff and they make it stick. Well let me tell you, Mr. President, they're just like you and I and maybe in some ways a little bit more responsive to the legislative will and mandate. They respond to the Legislature. If the Legislature takes a position in total opposition to the death penalty, it will be an indication to the judges of this State that the sentencing, the get tough sentencing attitude among the public is not one which this Senate adopts, and I don't think we want to give them that message. There's going to be an amendment later, I'm told, that takes away forever the liberty of a person through a mandatory life sentence. Just let me make one brief comment and I'll speak to the amendment when it comes up. To me, the loss, the complete loss, utter loss,

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irretrievable loss of liberty is just as terrible as the death penalty and I think to most individuals who would be convicted of one of the crimes enumerated in the Bill. The only difference is that society does not retain within its power the right to terminate a life when there is no chance of rehabilitation. A so-called life sentence actually means if you're a good boy for 20 years, you may get paroled. What a mandatory life sentence would do would be to keep an individual in jail forever. Any corrections official, including the commissioner, will tell you that you cannot control an individual who is under a mandatory life sentence--that he won't be a model prisoner, that he'll cause trouble and may even take the life of a corrections officer. I hope I've responded to the major points given by the opponents and hope that when we come back in one hour, Mr. President, that we will be able to dispose of this matter in the proper way by hearing the amendments, speaking to them, voting on them, and eventually voting on the Bill in its final form.

THE CHAIR:

Senator DeNardis for a point of personal privilege.

SENATOR DE NARDIS:

Yes Mr. President, I do rise on a point of personal privilege. Mr. President, of all the introductions that I have made of friends in this Chamber since 1971, the one I am about to make gives me the most pleasure, gives me the most pleasure because the man whom I am about to introduce to you is a very dear friend who I consider

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as lucky that he is here with us today. This gentleman is an attorney in New Haven, has been my campaign manager in every one of my campaigns, has been a former member of the Hamden Board of Education, is a member of the Governor's Task Force on Housing and numerous other things. But the event that I'm referring to is the fact that in December he sustained a very serious, very serious injuries in a very serious automobile accident and through December and January his family and his friends worried desperately about his condition. This afternoon he is with us. We thank God that he is with us. We thank God that he is going to be A. Okay. We have an expression here in the Senate when we introduce guests; we say, would you give my guest your usual welcome. May I prevail upon you to give my guest an unusual usual welcome--Attorney Bernard Pelligrino.

THE CHAIR:

Welcome to the Senate.

SENATOR LYONS:

Mr. President.

THE CHAIR:

It's the intention of the Chair to call for a one-half hour recess. We're going to come back at 1:15 and we'll take up, Senator Lyons, unless it's--is it a point of personal privilege? Proceed.

SENATOR LYONS:

Thank you, Mr. President. I rise on a point--we have with us

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in the upstairs Gallery a number of young children whose parents are my avid supporters and--from the East Norwalk Community Organization and if they would stand I would ask the Circle to give them the usual welcome.

THE CHAIR:

The Senate will stand at recess until exactly 1:15.

The Senate recessed at 12:50 P.M.

The Senate reconvened at 1:30 P.M.

THE CHAIR:

The Senate will come to order. Will one of the stewards please close the door into the restaurant since it is very noisy. The Chair is ready to recognize a Senator. Senator Cashman.

SENATOR CASHMAN:

Mr. President, it is my understanding that as soon as we can get a quorum, which hopefully will be very soon, Senator Lenge would be the first Senator to be recognized; I believe he plans to offer an amendment to the Bill that's in front of us.

THE CHAIR:

Thank you, Senator Cashman, for filling time.

SENATOR CASHMAN:

We should switch places and let you fill the time. You're much better at it, Mr. President.

THE CHAIR:

It's in the Chinese food. I wish the Senators would rice to the occasion. Perhaps the Manchurian candidate should come

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out now. This is all extemporaneous, Stanley. Senator Eggroll will offer an amendment. Senator Lenge.

SENATOR LENGE:

Mr. President.

THE CHAIR:

May we have order, please.

SENATOR LENGE:

Mr. President. The Clerk has an amendment.

THE CHAIR:

Do you wish the amendment to be read, Senator?

SENATOR LENGE:

Mr. President, I move that the reading of the amendment be waived and I would be happy to explain the amendment.

THE CHAIR:

Is there any objection to the waiving of the reading of the amendment? Hearing none, the reading of the amendment is waived and Senator Lenge will please explain the amendment.

SENATOR LENGE:

Mr. President, this amendment would present for consideration by this body a special concept known as a special life sentence. And what it does is delete the words death penalty in the underlying Bill and substitute the words special life sentence. At the outset, I would like to inform the Circle that the concept and the test of constitutionality has been put to eminent teachers of law in this State and to eminent lawyers, and it is the

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conclusion that it meets the tests of legality. Having said that by way of preface, I will present an outline of the concept and the specific areas touched by the amendment. First, it establishes a maximum sentence of life imprisonment. The minimum sentence which is set by the Court shall be one-half of the person's life expectancy at the time of sentencing as determined under the Standard Ordinary Mortality Table approved by the National Association of Insurance Commissioners in December 1958 to which the amendment makes reference. There are certain concepts, Mr. President, that give grave concern and it is to these concepts that the amendment is addressed. In other words, what do we mean by life imprisonment when the prisoner may be released under certain varying circumstances and it is to this that the amendment makes its prime charge. Good time is the first concept to be considered, and under the amendment, a person serving a special life sentence shall not receive any form of good time. The amendment makes the necessary reference to the appropriate sections of the Statute and those are the ones to which you see the amendment being on your desks. Meritorious good time--statutory good time--all forms of good time including provisions for time off for working seven days a week, jail time and any other such time are not allowed as credit. For serious misconduct while confined, the Commissioner of Correction may in fact add time to the minimum sentence but not to exceed 60 days during any calendar year. The next prime area of consideration (inaudible).

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THE CHAIR:

Proceed. The Senate will come to order. We will now proceed to complete the debate and go to a vote on both the amendment and depending upon that on the main Bill. May I have your attention. Senator Lenge.

SENATOR LENGE:

Mr. President...

THE CHAIR:

Will you remind us the point at which you were.

SENATOR LENGE:

In quickly putting things back in context, I'd explained the thrust of the amendment in terms of the minimum-maximum terms with a special life sentence and the fact that there was--that this amendment would delete any provisions for reduction of the minimum special sentence for good time or other such provisions that now exist. I started then to discuss the questions of modification of the sentence, by action of the Pardon Board and the Governor. Under the provisions of this amendment, the Board of Pardon would not have power to modify or reduce the minimum or the maximum sentence of a person serving a special life sentence. Nothing in the act shall be construed to limit the power of the Governor to modify a special life sentence by exercising his power of executive clemency. When a person has served his minimum sentence, he shall be eligible for parole consideration by the Board of Parole under certain special conditions, the first of which is, the

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Commissioner of Correction, after consulting with the warden of the institution in which the person is confined, shall certify to the Board that taking into consideration the person's behavior and performance while confined, the Commissioner is of the view that such a person is now fit and proper to be released on parole, subject to the next condition; that the Board of Pardon, after reviewing the case, including the mentioned certification by the Commissioner, shall certify to the Board of Parole that in its judgment, that is, in the judgment of the Board of Pardon, the person is now a fit and proper person to be released on parole. This is followed then by certain other procedures before the Board of Parole. A person certified by the Commissioner of Correction and the Board of Pardon as eligible for parole consideration shall thereupon be considered by the Board of Parole for parole under the following procedure: first, the Board shall notify the state's attorney of the county in which the person was sentenced of the parole proceeding and shall afford him an opportunity to express his views regarding the desirability of parole. Second, the Board shall also notify all judges who participated in the trial and I recognize that some or none may be alive to receive the notice, but if they are, they would receive such notice from the Board of Parole with respect to the proceeding and shall afford each of such judges an opportunity to express views regarding the desirability of parole. Next, the Board shall secure psychiatric reports on such person from at least three psychiatrists, one of whom shall

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be selected by the Board, one by the person and one by the superintendent of the Security Treatment Center. The next step, the person seeking parole shall have the burden of proving by a preponderance of the evidence that his release upon parole would not create a danger to himself or to others. Lastly, a decision to parole shall require the affirmative vote of no less than 5/6 of the total membership of the Board of Parole, subject to further steps. The decision of the Board to grant or deny parole shall be reviewable in the Superior Court upon motion by the state's attorney of the county in which the person was sentenced or by the person himself. The decision of the Board shall be affirmed by the Court if supported by substantial evidence. Terms and conditions of parole and special provisions as to parole supervision are also incorporated into this amendment and it enables and empowers the Board if it grants parole to impose such special terms and conditions and require such special supervision of the person while on parole as it deems appropriate to the particular case. Mr. President, that is a summary of the amendment; and to clarify it, there has been some question because a number of amendments have appeared on the desks. This is LCO Number 8703. Mr. President, I speak in support of this amendment because I think it answers objections that have been raised not only in this debate but that have been raised from time immemorial with respect to the lack of permanence so to speak in the life sentence. There are two aspects to the question. One is that a prisoner sentenced to life

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without any hope whatsoever to ever regain freedom in society is condemnation as a death penalty to die by the minute in jail in effect, behind bars, it is a death penalty. This amendment gives anyone who has been in prison, found guilty, the hope, maybe a very hard one to achieve because the road to parole, to regaining freedom, is indeed, under this amendment, long and arduous after having served the absolute minimum time under the special life sentence. But nonetheless, the hope is there and the objection of the finality is removed. I think we've heard through this debate repeated mention of deterrence, and I think it can be summed up and does not call for repetition here, can be summed up in the words of the Chairman of the Judiciary Committee who says, that at best, the statistics on deterrence are inconclusive. I don't say that I'm ready to accept that as a valid proposition, but if they are inconclusive and if they are not a deterrent, then I suggest to the members of this Circle that this substitute is a deterrence. Detection of criminals, arrests, the certainty of punishment have the greatest of deterrent value, and in addition, they do not have the negative aspect of distorting the effects of the trial process because judges and juries are reluctant to impose the death sentence. There is no easy and there is no sure answer for cure of crime, but certainly a penalty such as this meets all of the accepted (inaudible) and requirements for a good penal system. The prisoner is removed from society for a time certain and perhaps for life never to regain freedom. Society is thereby

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protected. The prisoner is an example to others for the deterrent effect and the deterrent element is in the amendment. A penalty is paid and lastly, the question that I propounded to the Judiciary Committee when these three elements were listed as the guideposts for a good penal system, the last one was rehabilitation. These were the four criteria and I pose the question which went unanswered, how does a dead man get rehabilitated? And there was no answer. There can be no answer because he cannot be rehabilitated. My position on this amendment and inherent in the amendment is the question of justice, sure justice. I am not for coddling criminals. I am not advancing this on the basis of sentimentality or squeamishness. I am not prone to any bias or favor toward or for a criminal. I pose this because it is my belief that it is the most sound position for society. In the briefest possible summation, I believe that the position evaluates the totality of adverse consequences resulting from two wrongful killings, the second of which is clearly preventable. It can never be denied that man fears death. We can assume, and that's the basis for the underlying Bill, that man wants to live. The taking of life is presumed or assumed to be the supreme penalty. Legislatures and legislators believe and still believe that the fear of death resting as it does in the complicated natures and mysterious as it is of the man and all of us is the most powerful of incentives. And it is. It is basic and inherent to human nature. And it

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should be a deterrent, but it is not. The error is in the legislative belief that this desire is the basis for all of man's actions. Therein lies the error. The law seems to believe that the desire to live dictates all of man's conduct. You know and I know that that is not true. What the law does not understand is that there are competing instincts to live and to die, self-preservation and self-destruction, and that there are other prevarications--alcohol, drugs and other conduct. Why does not the underlying Bill include the death penalty for murder on the highways, for driving a vehicle at 80 miles an hour through congested lanes of traffic with utter and complete disregard, wanton conduct, for the lives of others knowing the potential lethal character of such conduct? While the penalty is aimed at frightening everyone, it succeeds mainly with normal minds. It does not reach the mind which never was or has ceased to be normal, assuming normality to be a fear of death. And there are moments in time when the criminal is abnormal and normal, and it swings between the two, and the reason therein is the reason of no deterrence in the death penalty. Wisdom, true civilization, exaltation of man, all depend in this society on the reverence for human life. It begins in the hearts of all individuals and it is nourished and fostered by the laws. It is nourished and fostered by the policies of the people of this State expressed through its members in the Legislature. It is nourished and fostered by justice and that's what this amendment is--justice--no favoritism for the criminal, no disregard for the

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victim, understanding the delicate, interrelated reasons for a criminal act--holding out true deterrence and holding out true hope of rehabilitation. If you want a just law, if you want an enlightened law, you will vote for this amendment.

THE CHAIR:

Question is on the amendment. Will you remark further.

Senator Guidera.

SENATOR GUIDERA:

Mr. President, I rise to vigorously oppose the amendment. There's no question, Mr. President, that the purpose behind this amendment is to satisfy those who would like to take a middle ground, those who would like to make sure that criminals convicted of murders stay in jail for the rest of their lives, or if they don't stay in jail for the rest of their lives, stay in jail for an extended period of years. It splits into two categories, first, the mandatory--I think it's called special life provisions of the amendment, and I'm sorry that Senator Lenge had to say that anyone who goes to jail with a special life sentence dies by the minutes, because if I was on the Supreme Court, either of this State or the United States, I'd consider that cruel and unusual punishment. I'd consider it as the legislative intent that we wanted to cruelly and unusually punish somebody to let them die by the minutes. It is also revengeful and no less revengeful than those who would impose the death penalty simply because they like to see people die, and I don't stand with those people, Mr. President, even though I'm for the Bill. In the case

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of the half-life sentence, there is no question in my mind if I were sitting on the United States Supreme Court that that provision is unconstitutional because it discriminates on the basis of age. A man who commits a murder at age 18 can't be paroled for 27 years, and I'm looking at this table that was passed out. It's a mortality table. If I'm 21 and I commit a murder, I can't be paroled for 26 years, but if I'm 65, and I kill somebody, I am eligible for parole in 7 years. There is no question that the Supreme Court would strike that down as unconstitutional. Mr. President, I think that I would like to reiterate that the Senators in this room should reflect upon, if they want to vote for this amendment, who it is that they are saving from the death penalty. Does this amendment save the husband or the wife who kills his or her spouse? No! He or she doesn't receive the death penalty under the Bill as written. Do you save the deranged murderer? No, he doesn't get the death penalty under the Bill as written. Do you save the mass murderers, the Charles Mansons of the world? No, they don't get the death penalty under File 241. Do you save the pitifully poor man, economically poor who through financial need holds up a gas station or a liquor store and on his way out the door turns and kills the owner or the attendant. No, he doesn't get the death penalty under the Bill as written. Do you save the driver of the get-away car? No, the chances are that his participation is relatively minor and he wouldn't get the death penalty under the Bill as written. Do you save a murderer who is a minor? No,

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he doesn't get the death penalty under the Bill as written. Who do you save--those who murder policemen and firemen, hired assassins, purshers of heroin, cocaine and methadone who are non-addicted who cause a death, persons who commit a second murder, lifers who commit murder in escape attempts, kidnappers who kill their victims, that's who you save with this amendment. What about the lifer, the guy who committed a murder. Suppose the amendment passes and a murder is committed, a man is sentenced to life imprisonment, whether half-life or the special life verdict and in an escape attempt or in a prison riot, he kills a corrections officer. What does he get? He gets another life term. You know, if I were in a jail and I had no hope under the special life provisions of this amendment of getting out, I certainly wouldn't be a model prisoner, but more importantly, I wouldn't be a corrections officer in any prison that had to operate under this kind of an amendment. The fact of the matter is that lifers who have no hope of parole are the worst kinds of prisoners in our prisons. The Judiciary Committee took up this question with the Commissioner of Corrections and the officials in his department, and they were opposed to it. Senator Lenge speaks to the question of rehabilitation. Tell me, how do you rehabilitate a man who has no hope of parole. You don't rehabilitate a man like that, he's in jail for life and he stays there for life. Finally, Mr. President, I would like to say one thing. There's been much talk about deterrence. Does a mandatory life sentence or a mandatory half-life sentence deter anybody? I

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doubt it. I doubt it very seriously. It certainly doesn't deter the individual who is a lifer who thinks that he's got everything to gain and nothing to loose by trying an escape from prison or getting involved in a prison riot. And with those few remarks, Mr. President, I hope we can go to a vote on this amendment and I would urge my fellow Senators to vote no on the amendment.

THE CHAIR:

Senator Cutillo, and you want to recede your motion, Senator Lenge? Then will you please yield to Senator Cutillo then I'll come back to you, Senator Lenge. Senator Cutillo from Waterbury.

SENATOR CUTILLO:

Mr. President, I'm not quite sure, but just in case, I'd like to move that when the vote is taken that it be taken by roll call.

THE CHAIR:

I had a note on it, it has not yet been mentioned. All those in favor of a roll call on the amendment signify by saying Aye. Opposed; Nay? More than 20 percent having assented, the vote on the amendment will be by roll call. There's been no motion on the main Bill. While you're up Senator, will you move that there be a roll call on the Bill.

SENATOR CUTILLO:

Mr. President, I move that a roll call--that when the vote is taken on the Bill that it be by roll call.

THE CHAIR:

All those in favor of a roll call vote on the main Bill signify

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by saying Aye. Opposed, Nay? More than 20 percent having as-  
sented, the vote on the main Bill when reached will be by roll  
call. Senator Lenge.

SENATOR LENGE:

Mr. President, Mr. President, I listened to Senator Guidera. He was not speaking about the amendment before you. The amendment before you holds out hope. That's the whole point. It holds out hope of regaining freedom, re-entry to society. It is not banishment to life imprisonment and death by the inch imprisonment. That's the whole point of the amendment. My remarks related to death by the inch or by the minute in those instances where there is an absolute term of life. This provides a method. Admittedly, it is arguous, but it is a hope, and therein lies the distinction. Society is protected and the human being prisoner, dreg of society that he may be if you think so has a long and hard road and an uphill battle with a burden on him to prove his worth of regaining society. He is not a caged animal under this amendment. I say again that trained and distinguished legal minds have analyzed the constitutional question and find it so, regardless of the lamentations that may be made on this floor. It is sound from a legal proposition. The question is posed, who is it that we are saving from the death penalty, and then the criminal is pointed to. I'll answer the question. If you'll vote for this amendment, who is it that you are saving from the death penalty--one word--society. Would you execute the innocent? You ran down the list.

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Under any death penalty, here is the inherent possibility. A California governor's stay of execution to permit legal steps on a claim of innocence came two minutes after the execution in 1957. In 1958, a Texas convict was reprieved when another person confessed to the crime less than three hours before he was to die in the electric chair. If a convicted person is sentenced to life and it develops later that he is innocent, there is an answer. If it develops later that he's an extremist from fatal illness, under this amendment there is an answer. If it develops that at the time of trial, having been found guilty and given the special life sentence, he is found to be an extremist, there is an answer--executive clemency. A famed jurist of this Country, Judge Jerome Frank, wrote, "experience teaches the fallibility of court decisions. That is a fact of life. The courts have held many an innocent man guilty. How dare any society take the chance of ordering the judicial homicide of an innocent man." I'm not for coddling criminals, and this amendment does not provide that. I have one last thing to call to your attention. I quote, "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country. A calm and dispassionate recognition of the rights of the accused and even of convicted criminals against the State, an unfaltering faith, that there is treasure if only you can find it in the heart of every man--these are the symbols which measure the stored-up strength of a nation and are the signs and the proof of the living

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virtue in it." The words were uttered on July 20, 1910 in the House of Commons by the British Home Secretary, Winston Churchill.

THE CHAIR:

Question is on adoption of the amendment. Will you remark further. Senator Strada.

SENATOR STRADA:

Mr. President, I've now had the opportunity to hear Senator Lenge's amendment and the arguments he advances in favor of it. His arguments, I thought, were persuasive, and I know he's equally sincere. I've listened very carefully and I also listened very carefully to Senator Guidera's rebuttal, and quite frankly, I find in my own mind that I agree more with the rebuttal--I was persuaded more by the rebuttal than with the presentation, and I find also in my own mind that the position that I was leaning towards is confirmed. Senator Lenge said in his initial presentation, made some comments about this vote being a very solemn decision, and I sincerely agree with him. He also said that all of the arguments have two sides, and I couldn't agree with him more. Mr. President, reasonable men differ, and that's why the ultimate vote on this will probably be very close, and that's why over 50,000 words were used in those nine separate opinions by the nine Supreme Court Justices. We differ on whether or not capital punishment is a deterrent and whether or not it is a legitimate form of punishment, whether it is or is not constitutional. I certainly respect the position of those who proposed the Bill

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including their stated position that they grieve for the victim and for his family, and I accept that. By the same token, I would hope that they would respect the position that I take after weighing this question very carefully. I think everyone would agree that our society, and I know every member in this Circle would agree, does have a very high regard for human life--all life.. Therefore, concern over inflicting death weighs heavily upon all of us. Most of those who oppose and those who support the death penalty do so because of a desire to preserve life. But I think this fact is often forgotten by forceful advocates of both positions. We must not loose sight of the idea that it is the life of the innocent and the guilty which is in the balance, and it is not my position that the death penalty deters in all cases. However, I'm convinced in my own mind that in some situations the evidence of a deterrent value of the penalty is very strong. There have been studies made by the American Bar Association and others. I think experience has also led us to the conclusion that there is a deterrent value in capital punishment. And if the threat of the death penalty deters the killing of innocent victims, even to some limited extent, then in my judgment, its retention is justified. The logic which urges an abolition of the death penalty in the interest of human life, I submit, is more apparent than real. I've become convinced in my own mind that ultimately the abolition of capital punishment would result in a much greater loss of human life than would its retention. It is admittedly tragic whenever

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the State in the most awesome exercise of its authority decides that capital punishment must be invoked; tragic because any loss of human life is a tragedy. But I submit to you that even in the tragedy of human death, there are degrees, and that it is much more tragic for the innocent to loose his life than for the State to take the life of a criminal convicted of a capital offense. Opponents of capital punishment point to the criminal homicide rates in states which have legally banned the death penalty and they have claimed support for their belief in the fact that the statistics in these states are lower than in some in which equal punishment continues to be legally permissible. Mr. President, I submit to you that questionable nature of such statistics becomes immediately apparent when we realize that capital punishment as a practical matter has ceased to exist in all states. When five years pass without a single state exacting the death penalty, then statistics in comparing states with capital punishment and those without become, in my judgment, meaningless. We have, in effect, become a nation in which capital punishment does not exist, and I become convinced that part of the results of this has been a very great increase in capital offenses. And a frame of reference that I would like to touch upon that hasn't been touched upon very exhaustively here is that the victim of the violent crime--those people who actually suffer at the hands of those for whom we are today considering the penalty--and there are two aspects in which the rights of the victim should be considered--

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those of the actual victims and of course their families in the case of homicides and those of potential victims who could conceivably be the beneficiaries of the deterrent effect which we believe the death penalty has on potential murderers. The victims of crime, I submit, are deserving of consideration, and I think it should be pointed out that beyond any doubt whatsoever the racial minorities and the ghetto dwellers are the principal victims of crime. The Packer study went so far as to say that ghetto dwellers are perhaps 100 times more likely to be the victims of violent crimes as non-ghetto dwellers. I would like to quote to you, if I may, a statement made by State Senator Raymond Ewing of Illinois. Senator Ewing, who is black, refused to vote for a moratorium on the death penalty in Illinois and he gave his reason as follows: he said, "I realize that most of those who face the death penalty are poor and black and friendless, but I also realize that most of their victims are also poor and black and friendless and dead." Mr. President, I do not subscribe to the position that the death penalty is a panacea. I certainly do not take the position that I take because of any motor for vengeance. But in my own judgment, I think capital punishment under carefully prescribed conditions and for highly selected offenses is a deterrent to certain kinds of crimes, and the value of human life is not lessened but is rather protected by retention of the death penalty as a form of punishment. Therefore, I will vote against the amendment.

THE CHAIR:

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Thank you, Senator Strada. The question is on the amendment. Will you remark further. Senator Fauliso.

SENATOR FAULISO:

Mr. President, I've been at the Bar for some 30 years, and I think I've watched some of the most important murder cases, and participated in some, and I am convinced as the Supreme Court was even though the decision was five to four that capital punishment has been applied arbitrarily in a very freakish manner. It makes no difference that it is a five to four decision. Are we more persuaded if it were six to three, seven to two? And reading the language of the justices, I'm convinced that at least several think that capital punishment per say is unconstitutional. And then if you're able to discern the language of all the other justices, including Justice Douglas, who I believe in the final analysis would also do likewise. And I believe that Justice Stewart and Justice White in an isolated opinion, perhaps not in the main, deemed it also cruel and unusual punishment. And I think that the other justices who dissented felt that this was a challenge for us in the State Legislatures. And they defy us to draft a valid, constitutional law that will include the capital punishment. I cannot toss asunder 30 years of experience, watching the courts, seeing the application of this law of capital punishment; talk to state's attorneys, and they will tell you about the reluctance to apply capital punishment. Talk to people who have served on juries, who so are summoned to serve in a capital case,

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and they will tell you about their reluctance to serve on juries or to qualify on juries. See the full operation of our law when a man is indicted for first degree murder. Let's talk about practicalities. Let's not be governed by which--by the way in which the wind blows because several years ago the pendulum was the other way and the polls showed that the people favored abolition of capital punishment. And I was here in this Chamber and so were you, Mr. President, when Governor DeSalle came here and made an excellent presentation calling for the abolition of capital punishment. And this Hall was packed. And there were numerous supporters, and that was the thinking of the day, and only a few years have elapsed and now there is--now we discern some slight difference--there is a--now leaning the other way, so those of us who are governed by that kind of wind feel that we must react. But Mr. President, there is something so basic in this reality, in this proposition that we must consider it in all its aspects. Go into the Courts and you will see the person who is indicted. If he is wealthy, Mr. President, he avails himself with a battery of lawyers. He has the where with all. Mr. President, take for example the Sheppard case. Finally, survived in the Supreme Court--finally hired counsel that made--that persuaded the justices on a point where he wasn't given a fair trial. Take the other individual on the extreme--the individual who's not economically equipped. He is given a public defender--or--he may be given a special appointment--one who may assist the public defender.

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Now Mr. President, there are those in the legal profession who are equipped, who have the tools, who have the skill and the ability. If life and death is to be predicated on the skill of an attorney, there is something wrong with this system. It's imperfect. It's pallible because it's made up of human beings, and this is what I deplore, and this is what the Supreme Court saw for years, for ages, the discriminatory manner, and they have seen the arbitrary manner, the wanton and the freakish manner of the application of this law. And as I listened to all of the debate, Mr. President, I sense that all of us, to a man, feel that there is some doubt; if he were to admit it in good conscience about capital punishment, but we have some fear that there is some highness crime that makes it compelling for us to keep capital punishment. Mr. President, that is wrong. It is wrong because we as a human tribunal can never render the kind of justice which is ideal. Mr. President, it seems to me that we have no other alternative but to be practical, to be realists. If the Courts are reluctant, if the juries are reluctant, if we have applied this in a discriminatory way, then, Mr. President, we feel in the depths of our hearts that capital punishment does not serve society in the objectives of society. And Mr. President, I support this amendment because I believe, I humbly submit that I am a realist. I believe that this is a reasonable alternative. I believe that it may not be a perfect instrument because it is predicated on an opinion of people who think that it's constitutional, but I have

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examined it. I believe that it is more constitutional than the one which we are considering here in the main, the one which asks for the re-introduction of capital punishment, for therein, if you read it carefully, you still leave it to the discretion of a prosecutor or a state's attorney if he wants to prosecute for first degree murder or second degree if you will. Mr. President, therein lies the kind of discretion which Furman and Georgia talks about and one the dissenting justices spoke in the languages which they outlined. They issued a challenge to us. Certainly, Sir, we're not geniuses, we're not capable of drafting something that will withstand the constitutional test, and I say, Mr. President, that there are strictures and protections in the amendment offered by Senator Lenge. Most of all, there will be the uniformity, there will be universality, there will be a fair application of the law. Mr. President, there is a further stricture, that if and when the individual having served is sentenced half of his life expectancy, he doesn't get out immediately, it doesn't call for his release summarily; he then must go into the Court and mind you at that juncture, he has the burden of proving by a fair preponderance of the evidence and by the evidence of doctors and those who are concerned with this case that this man is ready to take his place in society. And that is no empty form. That is not a superficial or artificial presentation, that will be a presentation that determines his ability and his qualification to seek his place again in society. That, Mr. President, presents a realistic view,

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a practical view, one which conforms with the temper of our society, Mr. President, and then we can depart from those things which bother us, a jury that--jurors who don't want to serve, Courts who are reluctant to impose this death which is final, prosecutors who have second thoughts about the finality of death. Mr. President, all that I know is this, that as a human being and as a lawyer, I hate to--I would not substitute for God or play God because in our history, there have been hundreds of cases where the innocent have gone to the gallows and have been executed. Now Mr. President, talk and conceive about the most heinous crime, but Sir, the answer is not found in punishment, the answer is not found in vengeance because we in society have a nobler objective, and that nobility is not enhanced with capital punishment. My option is, Mr. President, this amendment.

THE CHAIR:

Members of the Circle, your President has vibes which suggest that people are ready to vote. I have no power whatsoever to cut off the debate. I make that friendly suggestion. Under those circumstances, will you remark further on the amendment. Hearing none, we'll proceed after three announcements to the roll call and that because of the importance of the matter, the Chair would want to ascertain is that...who's the Senator over there...Senator Powers has been in the Chamber.

SENATOR ROME:

Everyone is here, Mr. President.

THE CHAIR:

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Everybody's here but Senator Burke who's unavailable, I believe, is that correct? Is Senator Burke here? Well let us go to the trouble individually of getting all members here. We will then without further roll call proceed immediately to the roll call without further announcement. Proceed immediately the roll call on the main question.

THE CLERK:

Senator Fauliso	Yes	Senator Murphy	Yes
Wilbur Smith	Yes	Cashman	No
Burke	Yes	Gunther	No
Odegard	No	Scalo	No
Lege	Yes	Caldwell	No
Zisk	Yes	Petroni	No
Alfano	No	Lyons	Yes
Rome	No	Guidera	No
Truex	Yes	Strada	No
Lieberman	Yes	Gormley	No
Ciarlone	Yes	Berry	Yes
Page	No	Power	No
Zajac	No	Dinielli	Yes
Winthrop Smith	No	Bozzuto	Yes
Cutillo	No	Costello	Yes
Sullivan	No	DeNardis	Yes
Powanda	No	Carruthers	No
Hellier	Yes	Finney	Yes

THE CHAIR:

Let us please keep order. May I have your attention please. Results of the roll call vote on Senate Amendment Schedule A to House Bill No. 8297:

Whole Number Voting	36
Necessary for Passage of the Amendment	19
Those Voting Yeah	17
Those Voting Nay	19

The Amendment is defeated. We will now proceed without any acclaim or outburst to a roll call on the main Bill. - Beg your

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pardon--two more amendments that had not been brought to the Chair's attention. Senator Fauliso.

SENATOR FAULISO:

Mr. President, I have submitted two amendments, but I will forego the one which substitutes the life sentence in view of the action that has been taken. That Bill apparently is one which perhaps everyone has on its desk, but in view of the vote, I would only move for the one which changes the effective date of the main Bill asking that the effective date shall--that the Bill shall--the Act shall take affect October 1, 1975. And Mr. President, I move for adoption of that amendment.

THE CHAIR:

Do you wish to have the amendment read or do you wish to waive the reading of the amendment?

SENATOR FAULISO:

The amendment is one sentence so the Clerk perhaps could read it.

THE CHAIR:

He can make it.

THE CLERK:

Senate Amendment Schedule B offered by Senator Fauliso of the First District to Substitute House Bill No. 8297, File No. 291. Add Section 16 as follows: Section 16. This act shall affect October 1, 1975.

THE CHAIR:

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Senator, the question is on adoption of the amendment. You may remark.

SENATOR FAULISO:

Mr. President, I think it's apparent to everyone of us that the effective date is projected to October 1, 1975 for a valid reason. It is my hope that the Supreme Court, United States Supreme Court, will have an opportunity to review bills of the same type that we have presented here today and which will be acted upon shortly, and I don't think that we should immediately plunge into an effective date which will be in the immediate future. I think it would do well having passed this Bill that we keep in abeyance the effective date until October 1, 1975 so that our State will not be in a position to make mistakes which will provoke litigation and then to the whole legal process of bringing the case to the United States Supreme Court. Already I understand there are states that have moved into this area. I think that it might be prudent and wise if we kept--if we made the effective date as outlined in this amendment. I move for adoption and I move for a roll call vote.

THE CHAIR:

Question is on a roll call on Senate Amendment Schedule B. All in favor say Aye. Opposed, Nay? More than 20 percent having assented, the vote when taken will be by roll call. May the Chair suggest it's a very simple and self-explanatory amendment. Senator Page. Senator Page.

SENATOR PAGE:

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Mr. President, the Senator from the First, can our capital punishment bill if it's passed be tested in the Supreme Court without a case to test it with?

THE CHAIR:

Senator Fauliso, if you will; since it didn't come across...

SENATOR FAULISO:

It did come across.

THE CHAIR:

Will you repeat it, please. Well, I can repeat it. The question is, can our law be tested without an adversary person to person or person versus the state case to test it with, isn't that right, Senator Page?

SENATOR PAGE:

Yes.

THE CHAIR:

Our law, the law that we are passing...

SENATOR FAULISO:

(Inaudible) you're talking about the...

THE CHAIR:

The law that we may pass later. Can it be tested without a lawsuit of a state versus somebody going up to the Supreme Court?

SENATOR FAULISO:

We'd have to employ all of the legal process. That means going to Court, it means our Connecticut Supreme Court and it means the United States Supreme Court.

THE CHAIR:

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Well the answer is no, then, to his question.

SENATOR FAULISO:

The answer is no.

SENATOR PAGE:

Well, would you please--through you, Mr. President, what good would the delay do; I mean, others states if they have capital punishment bills would not be similar to Connecticut's bills would they?

SENATOR FAULISO:

The same...

THE CHAIR:

(Inaudible) Senator, after you've asked...

SENATOR FAULISO:

Mr. President, I think I--I thought I explained this originally, but again to reiterate, I think other states are moving in the same direction, adopting the same concept; all of them are desperately trying to conform with the language of the Supreme Court, at least the dissenting opinions of the justices thinking that the state legislatures can pass such an act that will withstand the constitutional test. And what I'm saying is that the State of Connecticut could keep the operation of this Act in abeyance until 1975 and give an opportunity to the other states--let them make the test. And I don't think we'll be prejudicing anybody. I think what we're doing is protecting the rights of everyone.

THE CHAIR:

Question further. Senator Powanda.

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SENATOR POWANDA:

One further question through you, Mr. President, to Senator Fauliso. Is it not true that no matter what the Supreme Court rules on the previous or the other capital punishment cases presented to it that the Connecticut law may then or will probably be tested anyway before the Supreme Court at a later date?

THE CHAIR:

Senator Fauliso, if you will.

SENATOR FAULISO:

That's a possibility, Mr. President, but knowing how the Supreme Court works, its judgments are very sweeping and necessarily would include a legislation such as we're acting upon today.

THE CHAIR:

Further question or comment. Senator Guidera.

SENATOR GUIDERA:

Mr. President, I think the points raised by Senators Page and Powanda are timely and points that I was going to raise myself had not Senator--had I been recognized first. The fact of the matter is that our law would not be, in my opinion, similar to any other state law; as far as I know, our Judiciary Committee has approached this law individually. Georgia has re-passed its statute and they give you the death penalty for just about anything. And if their death penalty statute were unconstitutional, it would not mean that Connecticut's is because of the mitigating and aggravating circumstances that we've built into our Bill and

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the absence of those mitigating and aggravating circumstances in the bills in the statutes of other states. But additionally, I think, Mr. President, a point that should be made here is that to vote for this amendment is really to shirk your duty as a State Senator in this Session for which the people of your District have elected you. This essentially puts off the imposition of the death penalty onto the next Legislature. Some of us will be here again and some of us will not be here again, and I think that we should decide the issue squarely, face it squarely today, and decide the issue in the 1973 Session, and I would urge that the amendment be rejected.

SENATOR LENGE:

Mr. President.

THE CHAIR:

Senator Lenge.

SENATOR LENGE:

Mr. President, (inaudible).

THE CHAIR:

Would you continue, please. Will all Senators please take their seats so that we may move on with this halting business.

SENATOR LENGE:

Mr. President.

THE CHAIR:

Senator Lenge.

SENATOR LENGE:

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I don't know what the message is, but I'd rather--if I had a wish in this, I would have wished that had this had to have occurred, that it was during the debate on the road bill and the energy crisis and a few things like that. Mr. President, I rise to support this amendment. I don't think that it's a shirking of duty at all. I think that the amendment is well taken and worthy of our consideration. The underlying Bill is not unique to Connecticut. The McClellan Amendments will be considered by other jurisdictions as it will by the Congress. As a matter of fact, a distinguished former member of this legislative body, the then Representative Satter, at one time urged this Assembly to consider a two-stage trial procedure without avail just as you were unwilling to accept a new concept earlier of a special life sentence. You are willing to consider the two-stage procedure today and hopefully you will consider the other at a future date. But the issue before us on this amendment is a delay date. There are serious misgivings about the constitutionality and the meaning of the underlying Bill, and the delayed effective date will be tested--surely it will be tested and it will be tested in terms of the Connecticut law. I think that some reference has been made to five-to-four decisions, the narrow vote--what difference does it make what it is? It happens to be the law of the land, and whether it's by a one-vote margin or not, that's it! And this amendment really has great merit and I hope you will consider it favorably.

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THE CHAIR:

May we proceed to the roll call. Senator Fauliso.

SENATOR FAULISO:

Mr. President, I forgot the exact date of the decision of Furman vs. Georgia, but I think it's June of '72, and then we've been operating without a capital punishment law in this State since that time, and I don't know of anyone who's been prejudiced, I don't know that the State is worse off, and very frankly, all I'm asking is that we move with caution, and I think no one is going to be hurt and no one is going to have any gain. And Mr. President, of course I deplore the choice of language in the heat of debate. I don't think anyone wants to shirk his or her duty. All of us regard this particular measure as a very serious one, and I think to keep in abeyance the operative date until October 1, 1975 gives nobility to our State. At least we alert--we tell the people in the outside--outside of our State and indeed the people of our State that we're concerned about this proposition, that we want something positive declared by the Supreme Court, and in due course, that will take place. Why rush pell mell into an enactment of a bill and make it effective immediately or at least immed--or in a short time from now? I think that the State would do well to adopt this amendment.

THE CHAIR:

Thank you, Senator. Will all Senators please take their seats immediately. Will you announce a roll call vote, please,

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immediately--two announcements and we will proceed. There is a Senator next to Senator Page--Senator, who is that? Senator Zajac's here? I would urgently request that all Senators other than calls of nature remain in their seats so we may proceed with the matter which is a very serious one and it does take some time to round up the responsible parties. Senator Zajac can be located with help--he's making the call. Well, we'll send a nurse then. Let us proceed. You want to make the announcement twice, then we'll proceed. Thank you, Senator Zajac. Let us proceed, all being in their seats.

THE CLERK:

Senator Pauliso	Yes	Senator Murphy	Yes
Wilbur Smith	Yes	Cashman	No
Burke	Yes	Gunther	No
Odegard	No	Scalo	No
Lenge	Yes	Caldwell	No
Zisk	Yes	Petroni	No
Alfano	No	Lyons	No
Pome	No	Guidera	No
Truex	Yes	Strada	No
Lieberman	Yes	Gormley	No
Ciarlone	Yes	Berry	Yes
Page	No	Power	No
Zajac	No	Dinielli	Yes
Winthrop Smith	No	Bozzuto	Yes
Cuttillo	No	Costello	Yes
Sullivan	No	DeNardis	Yes
Powanda	No	Carruthers	No
Hellier	No	Finney	Yes

THE CHAIR:

May I have your attention, please. Results of the roll call vote on Senate Amendment Schedule B to Substitute for House Bill 8297:

1977

April 19, 1973 119

C.G.C.

Whole Number Voting	36
Necessary for Adoption of the	
Amendment	19
Those Voting Yeah	15
Those Voting Nay	21

The amendment is not adopted. Mr. Clerk, may we proceed with a roll call vote on the main Bill if there is no objection. Are all Senators in their seats? Yes, please announce it; although I believe everyone's here, I see one vacant chair--Senator Zajac's? No, you're here this time. Oh, Senator Page was standing up. I just want to be sure. Senator Rome, would you--kindly, so that we may be certain that everyone is in his seat. So I believe--am I correct that all 36 Senators are in their seats? Let us proceed to the roll call vote, let us have absolute silence. Without any announcement, the Clerk will call the roll. The question is on the main Bill--yes is to adopt the proposal for a limited type of capital punishment in certain cases. No is not to adopt the Bill. Let us proceed.

THE CLERK:

Senator Fauliso	No	Senator Murphy	No
Wilbur Smith	No	Cashman	Yes
Burke	No	Gunther	Yes
Odegard	Yes	Scalo	Yes
Lenge	No	Caldwell	Yes
Zisk	No	Petroni	Yes
Alfano	Yes	Lyons	No
Rome	Yes	Guidera	Yes
Truex	No	Strada	Yes
Lieberman	No	Gormley	Yes
Ciarlone	No	Berry	No
Page	Yes	Power	Yes
Zajac	Yes	Dinielli	No
Winthrop Smith	Yes	Bozzuto	No

1978

April 19, 1973 120

C.G.C.

Senator Cutillo	Yes	Senator Costello	No
Sullivan	Yes	DeNardis	No
Powanda	Yes	Carruthers	Yes
Hellier	No	Finney	No

THE CHAIR:

Thank you. May I have your attention, please, before announcing the vote. I want to congratulate all members of the Circle for the finest, most sincere, intelligent and reasoned debate that I've heard in almost 11 years as an official in this Chamber. Whole number voting--result of vote on Substitute for House Bill No. 8297:

Whole Number Voting	36
Necessary for Passage	19
Those Voting Yeah	19
Those Voting Nay	17

The Bill is passed.

SENATOR ROME:

Mr. President.

THE CHAIR:

Senator Rome.

SENATOR ROME:

Mr. President, I move for acceptance and passage of the following bills on today's calendar.

THE CHAIR:

Senator Rome, oh, with your permission, I'm going to ask Senator DeNardis if he would preside, please. Thank you.

SENATOR ROME:

Mr. President, I move acceptance and passage of the following

25.

**Senate Amendment Schedule A  
LCO No. 8703**

**Rejected April 19, 1973**

Amendment

Calendar No. ....

Schedule A

File No. 291  
Substitute

~~House~~ House Bill } No. 8297  
~~Senate~~ House Joint Resolution }

Senate, ..... 19

ADOPTED

*defeated*

Clerk.

H. of R., ..... 19

ADOPTED

STATE OF CONNECTICUT  
SENATE <sup>Clerk</sup>  
REJECTED  
1 APR 15 1873  
*Robert W. Wilson*

LCO No. 8703 7

Offered by SEN. LENGE, 5th District 8

To Substitute H.B. No. 8297 File No. 291 Calendar No. 9

In section 1, strike out lines 4 to 7, inclusive, and substitute in lieu thereof: "Murder is punishable as a class A felony unless [the death sentence] IT IS A MURDER ENUMERATED IN SECTION 3 OF THIS ACT AND A SPECIAL LIFE SENTENCE is imposed as provided by section [53a-46] 4 OF THIS ACT."

In section 2, strike out lines 50 to 52, inclusive, and substitute in lieu thereof: "unless it is a murder enumerated in section 3 of this act and a special life sentence is imposed as provided by section 4 of"

In section 3, line 54, strike out "capital felony" and insert "murder for which a special life sentence may be imposed"

In section 4, line 88, strike out "death for a capital felony" and insert "a special life sentence for murder"; in line 92, strike out "capital felony" and insert "murder enumerated in section 3 of this act"; in line 152, strike out "death" and insert "a special life sentence"; in lines 159 and 160, strike out "the sentence of death" and insert "a special life sentence"; in lines 185 and 186, strike out "the sentence of death" and insert "a special life sentence"

Add a new section 5 as follows: Sec. 5. (NEW) (a) The maximum term of a special life sentence shall be life and the minimum term, to be set by the court, shall be one-half of the defendant's life expectancy as of the date of sentencing as determined under the provisions of the Commissioners 1958 Standard Ordinary Mortality Table, approved by the National Association of Insurance Commissioners in December, 1958. (b) A person serving a special life sentence shall not be eligible for commutation or diminution of his minimum sentence under any provision of sections 18-7, 18-97, 18-98 and 18-98a of the 1969

supplement to the general statutes or of section 18-98b of the 56  
1971 noncumulative supplement to the general statutes.

Add a new section 6 as follows: Sec. 6. Section 18-26 of 59  
the general statutes is repealed and the following is substituted 60  
in lieu thereof: (a) Jurisdiction over the granting of, and the 61  
authority to grant, commutations of punishment or releases, 62  
conditioned or absolute, in the case of any person convicted of 63  
any offense against the state [and commutations from the penalty 64  
of death] shall be vested in the board of pardons, EXCEPT THAT 66  
SAID BOARD SHALL HAVE NO POWER TO MODIFY OR REDUCE THE MINIMUM OR  
MAXIMUM SENTENCE OF A PERSON UNDER A SPECIAL LIFE SENTENCE. (b) 68  
Said board shall have authority to grant pardons, conditioned or 69  
absolute, for any offense against the state at any time after the  
imposition and before or after the service of any sentence. No 71  
pardon shall restore the privileges of an elector to any person 72  
who has forfeited the same by reason of conviction of crime. 73

Add a new section 7 as follows: Sec. 7. Subsection (b) of 75  
section 53a-24 of the 1969 supplement to the general statutes, as 76  
amended by section 39 of number 294 of the special acts of 1972, 77  
is repealed and the following is substituted in lieu thereof: 78  
Notwithstanding the provisions of subsection (a), the provisions 80  
of sections 53a-28 to 53a-44, inclusive, shall apply to motor 81  
vehicle violations. Said provisions shall apply to convictions 82  
under section 19-480a AND CONVICTIONS UNDER SECTION 3 OF THIS ACT 83  
FOR WHICH A SPECIAL LIFE SENTENCE HAS BEEN IMPOSED UNDER THE 85  
PROVISIONS OF SECTION 4 OF THIS ACT except that the execution of 86  
any mandatory minimum sentence imposed under the provisions of 87  
said section may not be suspended.

Add a new section 8 as follows: Sec. 8. (NEW) (a) The 89  
provisions of section 54-125 of the 1971 noncumulative supplement 90  
to the general statutes shall not apply with respect to any 91  
person who is under a special life sentence. 92

(b) Any such person who has served the minimum term of his 93  
sentence shall be eligible for consideration for parole by the 95  
board of parole, provided (1) the commissioner of correction, 97

after consultation with the warden of the institution in which 98  
such person is confined, shall certify to said board that, having 99  
taken into consideration such person's behavior and performance 101  
while so confined, said commissioner believes such person is, as 103  
of the time of such certification, a fit and proper person to be 104  
released on parole and (2) the board of pardons, having reviewed 105  
such person's history and the certification of the commissioner, 107  
shall certify to the board of parole that, in the judgment of 109  
said board of pardons, such person is, as of the time of such 110  
certification, a fit and proper person to be released on parole. 111

(c) Upon receipt of such certification, the board of parole 112  
shall notify the state's attorney of the county or judicial 114  
district in which such person was convicted and each judge who 115  
participated in the trial or sentencing of such person of his 116  
application for parole and shall afford each of them an 117  
opportunity to express his views regarding the desirability of 119  
releasing such person on parole. Said board of parole shall also 120  
secure psychiatric evaluations of such person from at least three 122  
psychiatrists, one of whom shall be selected by said board, one 123  
by the applicant for parole and one by the superintendent of the 125  
Security Treatment Center.

(d) The applicant for parole shall have the burden of 128  
proving by a preponderance of the evidence that his release would 129  
not create a danger to himself or another or others. 130

(e) A decision of the board of parole to release a person 131  
under a special life sentence to go at large on parole shall 133  
require the affirmative vote of at least nine members of said 134  
board. If the board so releases such person, it shall impose 136  
such special terms and conditions and shall require such special 137  
supervision with respect to such parole as it deems appropriate 139  
in the particular case.

Add a new section 9 as follows: Sec. 9. (NEW) Any decision 141  
of the board of parole with respect to an application for parole 142  
by a person serving a special life sentence shall be reviewable 143  
by the superior court on motion of the state's attorney for the 145

county or judicial district in which such person was convicted or 146  
on motion of such person. If the court finds the decision of 147  
said board to be supported by substantial evidence, it shall  
affirm such decision.

In section 5, line 214, strike out "5" and insert "10" 149

In section 6, line 255, strike out "6" and insert "11"; in 150  
line 264 and 265 strike out "CAPITAL FELONIES FOR WHICH THE 151  
SENTENCE OF DEATH" and insert "THOSE MURDERS FOR WHICH A SPECIAL 152  
LIFE SENTENCE"

In section 7, line 275, strike out "7" and insert "12" 154

In section 8, line 297 strike out "8" and insert "13"; 155  
strike out lines 312 to 314, inclusive, and insert "crime." 156

In section 9, line 315, strike out "9" and insert "14" 158

In section 10, line 341, strike out "10" and insert "15" 160

In section 11, line 364, strike out "11" and insert "16" 162

In section 12, line 375, strike out "12" and insert "17" 164

In section 13, line 397, strike out "13" and insert "18" 166

In section 14, line 407, strike out "14" and insert "19" 168

In section 15, line 437, strike out "15" and insert "20" 170

**26.**

**Senate Amendment Schedule B  
LCO No. 8601**

**Rejected April 19, 1973**

Amendment

Calendar No. ....

Schedule B

File No. 291

SUBSTITUTE

~~Senate~~ House Bill } No. 8297  
Senate House Joint Resolution }

Senate, ..... 19

ADOPTED

*Defeated*

Clerk.

H. of R., ..... 19

ADOPTED

STATE OF CONNECTICUT  
SENATE *Clerk.*

REJECTED :

*Rejected.*

*Robert W. Wilson*

LCO NO. 8601

AMENDMENT

4

LCO No. 8601

7

Offered by SEN. PAULISO, 1st DIST.

8

To Substitute H.B. No. 8297 File No. 291 Calendar No.

9

Add section 16 as follows: Sec. 16. This act shall take effect October 1, 1975.

13

14

27.

**Public Act No. 73-137.**  
**“An Act Concerning the Death Penalty”.**  
**Signed by the governor on May 4, 1973.**  
**Effective October 1, 1973.**

Substitute House Bill No. 8297

PUBLIC ACT NO. 73-137

AN ACT CONCERNING THE DEATH PENALTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 53a-45 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) Murder is punishable as a class A felony unless IT IS A CAPITAL FELONY AND the death sentence is imposed as provided by section [53a-46] 4 OF THIS ACT.

(b) [Where the court and the state's attorney consent, a person indicted for murder may plead guilty thereto, in which case the court shall sentence him as for a class A felony.

(c) ] If a person indicted for murder waives his right to a jury trial and elects to be tried by a court, the court shall be composed of the judge presiding at the session and two other judges to be designated by the chief justice of the supreme court, and such judges, or a majority of them, shall determine the question of guilt or innocence and shall, as provided in said section [53a-46] 4 OF THIS ACT, render judgment and impose sentence.

[ (d) ] (c) The court or jury before which any person indicted for murder is tried may find him guilty of homicide in a lesser degree than that charged.

Sec. 2. (NEW) (a) A person is guilty of murder when, with intent to cause the death of another person, he causes the death of such person or of a third person or causes a suicide by force, duress or deception; except that in any prosecution under this subsection, it shall be an affirmative defense that the defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be, provided nothing contained in this subsection shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime.

(b) Evidence that the defendant suffered from a mental disease, mental defect or other mental abnormality is admissible, in a prosecution under subsection (a), on the question of whether the

Substitute House Bill No. 8297

defendant acted with intent to cause the death of another person.

(c) Murder is punishable as a class A felony unless it is a capital felony and the death penalty is imposed as provided by section 4 of this act.

Sec. 3. (NEW) A person is guilty of a capital felony who is convicted of any of the following: (1) Murder of a member of the state police department or of any local police department, a county detective, a sheriff or deputy sheriff, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18 of the 1969 supplement to the general statutes, an official of the department of correction authorized by the commissioner of correction to make arrests in a correctional institution or facility, or of any fireman, as defined in subsection (10) of section 53a-3 of the 1971 noncumulative supplement to the general statutes, while such victim was acting within the scope of his duties; (2) murder committed by a defendant who is hired to commit the same for pecuniary gain or murder committed by one who is hired by the defendant to commit the same for pecuniary gain; (3) murder committed by one who has previously been convicted of intentional murder or murder committed in the course of commission of a felony; (4) murder committed by one who was, at the time of commission of the murder, under sentence of life imprisonment; (5) murder by a kidnapper of a kidnapped person during the course of the kidnapping or before such person is able to return or be returned to safety; (6) the illegal sale, for gain, of cocaine, heroin or methadone to a person who dies as a direct result of the use by him of such cocaine, heroin or methadone, provided such seller was not, at the time of such sale, a drug-dependent person.

Sec. 4. (NEW) (a) A person shall be subjected to the penalty of death for a capital felony only if a hearing is held in accordance with the provisions of this section.

(b) When a defendant is convicted of or pleads guilty to a capital felony, the judge or judges who presided at the trial or before whom the guilty plea was entered shall conduct a separate hearing to determine the existence or nonexistence of any of the factors set forth in subsections (f) and (g) of this section for the

Substitute House Bill No. 8297

purpose of determining the sentence to be imposed. Such hearing shall not be held if the state stipulates that none of the aggravating factors set forth in subsection (g) of this section exists or that one or more of the mitigating factors set forth in subsection (f) of this section exists. Such hearing shall be conducted (1) before the jury which determined the defendant's guilt or (2) before a jury impanelled for the purpose of such hearing if (A) the defendant was convicted upon a plea of guilty; (B) the defendant was convicted after a trial before three judges as provided in subsection (b) of section 1 of this act; or (C) if the jury which determined the defendant's guilt has been discharged by the court for good cause or (3) before the court, on motion of the defendant and with the approval of the court and the consent of the state.

(c) In such hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report which may have been prepared. No presentence information withheld from the defendant shall be considered in determining the existence or nonexistence of any of the factors set forth in subsection (f) or (g). Any information relevant to any of the mitigating factors set forth in subsection (f) may be presented by either the state or the defendant, regardless of its admissibility under the rules governing admission of evidence in trials of criminal matters, but the admissibility of information relevant to any of the aggravating factors set forth in subsection (g) shall be governed by the rules governing the admission of evidence in such trials. The state and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in either of subsections (f) and (g). The burden of establishing any of the factors set forth in subsection (g) shall be on the state. The burden of establishing any of the factors set forth in subsection (f) shall be on the defendant.

(d) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence of each of the factors set forth in subsection (f) and subsection (g).

Substitute House Bill No. 8297

(e) If the jury or, if there is no jury, the court finds that one or more of the factors set forth in subsection (q) exists and that none of the factors set forth in subsection (f) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the factors set forth in subsection (q) exists or that one or more of the factors set forth in subsection (f) exist, the court shall impose the sentence for a class A felony.

(f) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict, as provided in subsection (d), that at the time of the offense (1) he was under the age of eighteen or (2) his mental capacity was significantly impaired or his ability to conform his conduct to the requirements of law was significantly impaired but not so impaired in either case as to constitute a defense to prosecution or (3) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution or (4) he was criminally liable under sections 53a-8 and 53a-10 of the 1971 noncumulative supplement to the general statutes and section 53a-9 of the 1969 supplement to the general statutes for the offense, which was committed by another, but his participation in such offense was relatively minor, although not so minor as to constitute a defense to prosecution or (5) he could not reasonably have foreseen that his conduct in the course of commission of the offense of which he was convicted would cause, or would create a grave risk of causing, death to another person.

(q) If no factor set forth in subsection (f) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that (1) the defendant committed the offense during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, a felony and he had previously been convicted of the same felony; or (2) the defendant committed the offense after having been convicted of two or more state offenses or two or more federal offenses or of one or more state offenses and one or more federal offenses for each of which a penalty of more than one year imprisonment may be

Substitute House Bill No. 8297

imposed, which offenses were committed on different occasions and which involved the infliction of serious bodily injury upon another person; or (3) the defendant committed the offense and in such commission knowingly created a grave risk of death to another person in addition to the victim of the offense; or (4) the defendant committed the offense in an especially heinous, cruel or depraved manner; or (5) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value; or (6) the defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value.

Sec. 5. Section 53a-92 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) A person is guilty of kidnapping in the first degree when he abducts another person and when: (1) His intent is to compel a third person to pay or deliver money or property as ransom, or to engage in other particular conduct or to refrain from engaging in particular conduct; or (2) he restrains the person abducted with intent to (A) inflict physical injury upon him or violate or abuse him sexually; or (B) accomplish or advance the commission of a felony; or (C) terrorize him or a third person; or (D) interfere with the performance of a government function [or (3) the person abducted dies during the abduction or before he is able to return or to be returned to safety. Such death shall be presumed, in a case where such person was less than sixteen years old or an incompetent person at the time of the abduction, from evidence that his parents, guardians or other lawful custodians did not see or hear from him following the termination of the abduction and prior to trial and received no reliable information during such period persuasively indicating that he was alive. In all other cases, such death shall be presumed from evidence that a person whom the person abducted would have been extremely likely to visit or communicate with during the specified period were he alive and free to do so did not see or hear from him during such period and received no reliable information during such period persuasively indicating that he was alive].

(b) Kidnapping in the first degree is punishable as a class A felony [unless the death

Substitute House Bill No. 8297

sentence is imposed as provided by section 53a-46. When the court and the state's attorney consent, a person indicted for kidnapping in the first degree may plead guilty thereto, in which case the court shall sentence him as for a class A felony].

Sec. 6. Section 53a-25 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) Any offense for which a person may be sentenced to a term of imprisonment in excess of one year is a felony.

(b) Felonies are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D [and] (5) unclassified AND (6) CAPITAL FELONIES FOR WHICH THE SENTENCE OF DEATH MAY BE IMPOSED AS PROVIDED IN SECTIONS 3 AND 4 OF THIS ACT.

(c) The particular classification of each felony defined in this chapter is expressly designated in the section defining it. Any offense defined in any other section of the general statutes which, by virtue of any expressly specified sentence, is within the definition set forth in subsection (a) shall be deemed an unclassified felony.

Sec. 7. Subsection (b) of section 53a-28 of the 1971 noncumulative supplement to the general statutes is repealed and the following is substituted in lieu thereof: Except as provided in sections 53a-45, [53a-46,] 3 AND 4 OF THIS ACT AND 53a-92 [and 53a-93], when a person is convicted of an offense, the court shall impose one of the following sentences: (1) A term of imprisonment; or (2) a sentence authorized by section 18-73 or 18-75; or (3) a fine; or (4) a term of imprisonment and a fine; or (5) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a period of probation or a period of conditional discharge; or (6) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a fine and a period of probation, or a period of conditional discharge; or (7) a fine and a sentence authorized by section 18-73 or 18-75; or (8) a sentence of unconditional discharge.

Sec. 8. Subsection (b) of section 53a-35 of the 1971 noncumulative supplement to the general statutes is repealed and the following is substituted in lieu thereof: The maximum term of

Substitute House Bill No. 8297

an indeterminate sentence shall be fixed by the court and specified in the sentence as follows:

(1) For a class A felony, life imprisonment [unless a sentence of death is imposed in accordance with section 53a-46]; (2) for a class B felony, a term not to exceed twenty years; (3) for a class C felony, a term not to exceed ten years; (4) for a class D felony, a term not to exceed five years; (5) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime; AND (6) FOR A CAPITAL FELONY, LIFE IMPRISONMENT UNLESS A SENTENCE OF DEATH IS IMPOSED IN ACCORDANCE WITH SECTION 4 OF THIS ACT.

Sec. 9. Section 53a-55 of the 1969 supplement to the general statutes is repealed and the following is substituted in lieu thereof: (a) A person is guilty of manslaughter in the first degree when: (1) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or (2) with intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as provided in [subdivision (1) of] subsection (a) of section [53a-54] 2-OF THIS ACT, except that the fact that homicide was committed under the influence of extreme emotional disturbance constitutes a mitigating circumstance reducing murder to manslaughter in the first degree and need not be proved in any prosecution initiated under this subsection; or (3) under circumstances evincing an extreme indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person.

(b) Manslaughter in the first degree is a class B felony.

Sec. 10. Section 19-480a of the 1971 supplement to the general statutes, as amended by section 25 of number 278 of the public acts of 1972, is repealed and the following is substituted in lieu thereof: Any person who manufactures, distributes, sells, prescribes, dispenses, compounds, transports with the intent to sell or dispense, possesses with the intent to sell or dispense, offers, gives or administers to another person any hallucinogenic substance, amphetamine-type substance or narcotic substance or more than

Substitute House Bill No. 8297

one kilogram of a cannabis-type substance, except as authorized in this chapter, and who is not, at the time of [his arrest] SUCH ACTION, a drug-dependent person, for a first offense, shall be imprisoned not less than ten years nor more than twenty years; and, for a second offense, shall be imprisoned not less than fifteen nor more than thirty years; and for any subsequent offense shall be imprisoned for thirty-five years, PROVIDED, FOR A SECOND OR SUBSEQUENT CONVICTION OF THE SALE OF HEROIN, COCAINE OR METHADONE, THE PENALTY SHALL BE LIFE IMPRISONMENT.

Sec. 11. Subdivision (4) of section 1 of number 278 of the public acts of 1972 is repealed and the following is substituted in lieu thereof: "Amphetamine-type [drugs] SUBSTANCES" include amphetamine, optical isomers thereof, salts of amphetamine and its isomers, and chemical compounds which are similar thereto in chemical structure or which are similar thereto in physiological effect, and which show a like potential for abuse, which are controlled substances under this chapter unless modified.

Sec. 12. Subdivision (7) of said section 1 is repealed and the following is substituted in lieu thereof: "Cannabis-type [drugs] SUBSTANCES" include all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such a plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. Included are cannabimon, cannabimol and chemical compounds which are similar to cannabimon or cannabimol in chemical structure or which are similar thereto in physiological effect, and which show a like potential for abuse, which are controlled substances under this chapter unless modified.

Sec. 13. Subsection (23) of said section 1 is repealed and the following is substituted in lieu thereof: "Hallucinogenic [drugs] SUBSTANCES" are psychodysleptic substances which assert a confusional or disorganizing effect upon mental processes or behavior and mimic acute psychotic

Substitute House Bill No. 8297

disturbances. Exemplary of such drugs are mescaline, peyote, psilocyn and d-lysergic acid diethylamide, which are controlled substances under this chapter unless modified.

Sec. 14. Subsection (30) of said section 1 is repealed and the following is substituted in lieu thereof: "Narcotic [drug] SUBSTANCE" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (A) Morphine type: (i) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate which are similar thereto in chemical structure or which are similar thereto in physiological effect and which show a like potential for abuse, which are controlled substances under this chapter unless modified; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (B) cocaine type, coca leaves and any salt, compound, derivative or preparation of coca leaves and any salt, compound, isomer, derivatives or preparation thereof which is chemically equivalent or identical with any of these substances or which are similar thereto in physiological effect and which show a like potential for abuse, but not including decocainized coca leaves or extractions of coca

Substitute House Bill No. 8297

leaves which do not contain cocaine or ecgonine.

Sec. 15. Sections 53a-46, 53a-54 and 53a-93 of the general statutes are repealed.

Certified as correct by

\_\_\_\_\_  
*Legislative Commissioner.*

\_\_\_\_\_  
*Clerk of the Senate.*

\_\_\_\_\_  
*Clerk of the House.*

Approved           May 4          , 1973.

\_\_\_\_\_  
*Governor.*

28.

**Connecticut. General Assembly.  
Office of Legislative Research.  
Summary of Public Act No. 73-137.**

CONNECTICUT STATE LIBRARY  
HARTFORD, CONNECTICUT

Summary  
of 1973  
Public Acts

ACT, *n.* Denotes an act of purpose, will; a deed; a statute; a law, formally enacted by the legislative power of the United States or a "congress;" a statute.

Office of  
Legislative Research

Connecticut  
General Assembly

# LAW ENFORCEMENT

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## MAJOR PUBLIC ACTS

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PA 122—sHB 8247  
Judiciary Committee

### AN ACT CONCERNING THE ESTABLISHMENT OF A DIVISION OF CRIMINAL JUSTICE IN THE JUDICIAL DEPARTMENT

**PURPOSE:** To establish a division of criminal justice within the Judicial Department. The division will be in charge of the investigation and prosecution of all criminal matters in the courts within the State.

**SUMMARY:** The division of criminal justice, headed by a "chief state's attorney," is required to take all necessary and proper steps to prosecute all crimes against the laws of the state and its political subdivisions. The division will represent the state in all appellate, post-trial, and post-conviction proceedings arising out of any criminal action. **Effective Date:** July 1, 1973, except for purposes of the appointment of the chief state's attorney and the deputy chief state's attorney, which shall take effect from its passage.

#### CONTENT AND OPERATION:

##### Appointment

By July 1, 1973, and every four years thereafter the Chief Justice of the Supreme Court of Connecticut shall appoint a chief state's attorney to head the division of criminal justice. A deputy chief state's attorney who was previously a prosecuting attorney in the Circuit Court will also be appointed by the Chief Justice.

The judges of the Superior Court shall appoint a state's attorney for each county and for the judicial district of Waterbury and as many assistant state's attorneys on a full-time or part-time basis as necessary to handle the criminal business of the court.

The judges of Circuit Court shall appoint at least one prosecuting attorney for each circuit and as many full-time or part-time prosecuting attorneys as necessary to expedite the criminal business of the court.

##### Qualifications and Requirements

The chief state's attorney, the deputy chief state's attorneys, and each state's attorney must have been admitted to the practice of law for at

least three years prior to their appointment. Those state's attorneys appointed to such positions after July 1, 1967, are required to devote full time to their positions and may not practice law privately or be members of a law firm.

##### Duties and Powers

The duties of the chief state's attorney include the coordination and control of the activities of the division of criminal justice; the establishment of offices within the division with appropriate support staff, including detectives; the adoption of rules, guidelines, and policies for the division; the collection of statistical data; and the coordination of activities between the division and other federal, state, regional, municipal, and private agencies concerned with the administration of criminal justice.

Each state's attorney and assistant state's attorney will be allowed to act throughout the counties of the state regardless of where the criminal offense was committed. Likewise the prosecutors and assistant prosecutors will be allowed to act in any circuit within the state regardless of where the offense was committed.

##### Merit Ratings

The chief state's attorney is required to evaluate and prepare a merit rating for each state's attorney, assistant state's attorney, prosecuting attorney, and assistant prosecuting attorney. These performance evaluations will be submitted to the respective appointing judges for their consideration at the time for reappointing such attorneys for new terms of office.

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PA 137—sHB 8297  
Judiciary Committee

### AN ACT CONCERNING THE DEATH PENALTY

**PURPOSE:** To provide a constitutional means to impose the death penalty for certain crimes.

**SUMMARY:** This act enumerates six capital offenses and provides a two step procedure for the imposition of the death penalty. Guilt or innocence of the charge is first determined and if found guilty, a person is given a separate hearing to establish aggravating or mitigating circumstances. Punishment for a capital felony with mitigating circumstances is life imprisonment, and punishment for a capital felony without miti-

gating circumstances and with aggravating circumstances is the death sentence. Effective Date: October 1, 1973.

CONTENT AND OPERATION: The six capital felonies are:

- (1) murder of a policeman or fireman
- (2) murder for hire
- (3) murder by a previously convicted murderer
- (4) murder by a person who was imprisoned for life
- (5) murder of a kidnapped person by the kidnapper
- (6) sale by a non-drug dependent pusher of cocaine, heroin, or methadone to a person who dies as a direct result of the use of the above drugs.

If the defendant is found guilty of a capital felony, a separate hearing is held to determine whether any aggravating or mitigating circumstances exist.

The hearing can be held before the jury which determined the defendant's guilt, or before a new jury impanelled for this purpose, or before the court.

The hearing shall not be held if the state stipulates, that no aggravating circumstances exist or that one or more mitigating circumstances exist.

If any mitigating circumstance exists the punishment for the defendant is life imprisonment.

If there are no mitigating circumstances and one or more aggravating circumstances, then the death penalty is imposed.

Mitigating circumstances include the following:

- (1) the defendant was under 18;
- (2) his mental capacity or his ability to conform his conduct to the law was significantly impaired;
- (3) he was under unusual and substantial duress;
- (4) he was criminally liable for the offense, which was committed by another, but his participation in the offense was relatively minor;
- (5) he could not reasonably have foreseen that his conduct during the offense would cause death to another person.

Aggravating circumstances include the following:

- (1) the defendant committed the offense during the commission of or flight from a felony and he had been previously convicted of the same felony;
- (2) the defendant had already been convicted of two or more state offenses, two or more federal offenses, or at least one state and one federal offense for which a one year imprisonment could be imposed; these offenses must have been committed on different occasions and must have involved the infliction of serious bodily injury upon another person;
- (3) he knowingly created a grave risk of death to another person in addition to the victim;
- (4) the crime was perpetrated in an especially heinous, cruel, or depraved manner;
- (5) the defendant procured the commission of the offense by payment or promise of payment;
- (6) the defendant committed the offense for the receipt of anything of pecuniary value.

COMMENT: The U.S. Supreme Court held in *Furman v. Georgia*, 408 U.S. 238 (1972) that "the imposition and carrying out of the death penalty in these cases constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendment."

The Court did not hold that capital punishment was unconstitutional *per se*, that is, that capital punishment was unconstitutional in all circumstances. Rather it restricted its holding to a finding that the imposition of the death penalty under existing procedures was unconstitutional.

This act seeks to provide a constitutional procedure for the imposition of the death penalty in certain offenses by enumerating the specific capital offenses and limiting judge and jury discretion in the sentencing procedure by requiring findings with respect to mitigating and aggravating circumstances to the offense.

The two level procedure for the imposition of the death penalty (the determination of guilt and then the determination of mitigating and aggravating circumstances) is modeled on the so-called "Senator McClellan Amendment" to the proposed federal capital punishment statute.