

Legislative History for Connecticut Act

HB 5022	PA 39	1988
House	1149-1168	(20)
Senate	855-856, 888-890	(5)
Judiciary	40	(1)

Total 26 p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1988

VOL. 31  
PART 4  
1043-1428

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House of Representatives

Wednesday, March 16, 1988

Senate Joint Resolution 19.	
Total Number Voting	147
Necessary for Adoption	75
Those Voting Yea	147
Those Voting Nay	0
Those absent and not Voting	3

SPEAKER STOLBERG:

The resolution is adopted.

CLERK:

Please turn to page 4, Calendar 37, Favorable Reports, House Bill 5022. AN ACT ADOPTING THE UNIFORM FOREIGN MONEY-JUDGEMENTS RECOGNITION ACT. Favorable Report of the Committee on JUDICIARY.

REP. TULISANO: (29th)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Tulisano, it is good to see you looking relieved. Will you remark?

REP. TULISANO: (29th)

I move the acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Mr. Speaker, Clerk has an amendment, LCO 3204.

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SPEAKER STOLBERG:

Clerk has an amendment, LCO 3204.

REP. TULISANO: (29th)

Permission to summarize, Mr. Speaker?

SPEAKER STOLBERG:

Designated House Amendment Schedule "A". Will the Clerk please call?

CLERK:

LCO 3204, designated House "A", offered by Representative Tulisano et al.

REP. TULISANO: (29th)

Mr. Speaker? Permission to summarize?

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, the amendment makes some clarifications. Instead of the word "defendant", we use the words "judgement debtor," because at that point, in fact, they would be a judgement debtor. We make some changes in lines 6 and 7, technical in nature, and also adds a whole new section indicating that if a judgement debtor can show that there is an appeal pending from a foreign judgement, then there will be a stay on trying to execute on that judgement.

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I move its adoption.

SPEAKER STOLBERG:

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

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

Nay.

SPEAKER STOLBERG:

The amendment is adopted and ruled technical.

\*\*\*\*\*

House Amendment Schedule "A":

In line 6, delete the comma after "territory" and insert in lieu thereof "or"

In line 7, insert a period after "thereof" and delete the remainder of the line

Delete lines 8 and 9 in their entirety

In line 17, after "rendered" insert a period and delete the words "even through an appeal"

Delete line 18 in its entirety.

In lines 34 and 39, delete the word "defendant" and substitute the words "judgement debtor" in lieu thereof

In line 51, delete "settle" and insert in lieu thereof "settled"

In lines 60, 62, 67 and 71, delete the word "defendant" and substitute the words "judgement debtor" in lieu thereof

In line 76, delete the words "defendant had" and substitute the words "judgement debtor maintained" in lieu thereof

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In lines 79 and 81, delete the word "defendant" and substitute the words "judgement debtor" in lieu thereof

Delete section 7 in its entirety and substitute the following in lieu thereof:

"Sec. 7. (NEW) (a) If a judgement debtor shows the court that an appeal from the foreign judgement is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgement until the appeal is concluded, the time for appeal expires or the stay of execution expires or is vacated, upon proof that the judgement debtor has furnished the security for the satisfaction of the judgement rendered by the state in which it was rendered.

(b) If the judgement debtor shows the court any grounds upon which enforcement of a judgement of a court of this state would be stayed, the court shall stay enforcement of the judgement for an appropriate period, upon requiring the same security for satisfaction of the judgement as is required in this state."

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SPEAKER STOLBERG:

If there are members... just a minute.

Representative Chase, could you have the gentleman come down? Representative Hauser, could you...? There are too many conversations. Representative Keeley, could you take your seat, please? Representative Samowitz, could you take your seat, please? Representative Dillon, could you have...? Representative Dillon, could you have the young man please step down?

There are too many conversations taking place. Representative Zajac, please? Representative Patton, please? The Chair is unable to follow the debate. The

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Chair would also point out that one member seemed to be concerned that she did not have a copy of the amendment. I would urge all members that, if you do not have materials that you are voting on, please bring that to the attention of the Chair, and we will try to make sure that you have what is necessary to cast informed votes.

House Amendment Schedule "A" has been adopted. Will you remark further on the bill, as amended?

REP. TULISANO:

Mr. Speaker, the bill before us is, with the minor modifications done by the amendment just now, is a uniform act. A number of states have adopted it. It codifies much of our existing common law concerning enforcement in this state of foreign money judgements, that is judgements rendered by foreign nations, not just foreign jurisdictions within... It doesn't mean foreign jurisdictions of the State of Connecticut, of the United States. It means foreign countries.

The Section on International Law of the Connecticut Bar Association has issued support for this. They have indicated that it is a uniform bill. As we grow in the area of international commerce, in which this state is beginning to engage in even greater amounts than in the past, I think this gives

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recognition to those judgements, those lawsuits of other jurisdictions, and further will give, will be of an impetus for the other jurisdictions to recognize judgements of our courts in those nations.

I would move its passage, as amended.

SPEAKER STOLBERG:

Will you remark further? Representative Farr of the 19th.

REP. FARR: (19th)

Mr. Speaker, a couple of questions, through you, Mr. Speaker, to Representative Tulisano?

SPEAKER STOLBERG:

Please frame number one.

REP. FARR: (19th)

Representative Tulisano, I am curious as to why we didn't provide in this bill a provision that required the jurisdiction we are recognizing to also recognize our judgements. Through you, Mr. Speaker, to Representative Tulisano?

SPEAKER STOLBERG:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. I think in fact we have, as was indicated, this is a Uniform Law, and although we don't do anything uniform in this state, we have

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always made modifications. That has not been part of what the uniform law may be, and we think that by passing this law, many states, by their own...for want of a better word...common law have recognized our judgements, other foreign nations. And, this would be an encouragement, and we are looking for commit rather than requirements, as long as it is dealing with foreign nations.

REP. FARR: (19th)

Second question, through you, Mr. Speaker, to Representative Tulisano. Question, case of Union Carbide. If in fact there is a judgement issued in India against Union Carbide, how would the passage of this law be different than the action of our present common law in Connecticut?

REP. TULISANO: (29th)

Through you, Mr. Speaker? I think that in fact, under our common law, without the statutory laying out of how it is done, would effectively... They might be able to execute on a judgement in this state, also, in any event. But, we are laying out the statutory framework for it, giving recognition, in writing, I think, basically, that we do recognize other jurisdictions.

But, I think, under our common law, if a final

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judgement is rendered, our own courts can make inquiry as to the validity, as this law allows them to do, whether or not due process was adhered to, whether or not there was a fairness involved in the rendering of the judgement. And, if that was the case, I think a court here would have to sue on a judgement basically, of the execution, and a foreign country judgement, you would sue on that judgement in this state and then collect debt on that judgement. I think you would have to go through that whole process.

REP. FARR: (19th)

All right. Through you, Mr. Speaker, to Representative Tulisano, am I correct in understanding, though, that there is some procedural difference in that today, if you had that judgement, you would actually bring an action to declare that action valid? And this simply requires you instead to go to court to seek the enforcement of the judgement? And, procedurally, it would be a little different. Is that correct?

REP. TULISANO: (29th)

Through you, Mr. Speaker, that is correct. Debt on a judgement is a whole new action. You would have to bring a law suit. It would probably prove the same things, but this would just recognize the judgement as

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for what it is. But, then it gives our courts the right to inquire further.

REP. FARR: (19th)

Thank you.

SPEAKER STOLBERG:

Will you remark further on the bill? Will you remark further? If not, will members please be seated? Staff and guests... I am sorry. Representative Belden of the 113th.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. A question, if I might, to Representative Tulisano.

SPEAKER STOLBERG:

Please frame your question.

REP. BELDEN: (113th)

Representative Tulisano, if in fact the case... Or, let's say if the one in India is tried in the Indian courts, and a ruling was made, what would be the procedure then in the United States, to obtain a judgement, or to obtain an execution? Say it is a Connecticut-based company.

Through you, Mr. Speaker?

SPEAKER STOLBERG:

Representative Tulisano.

REP. TULISANO: (29th)

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Just for clarification, you mean under the current law? Or, under the proposed bill?

REP. BELDEN: (113th)

Through you, Mr. Speaker, under the proposed bill.

REP. TULISANO: (29th)

Under the proposed bill, you would have to come with a certified copy of the judgement of that foreign nation. Excuse me, and then you would go into court and file it, into a Connecticut court, at which time the judgement debtor can make... There are certain criteria that have to be found by our courts, in order to enforce that judgement, that it was an impartial Tribunal, as an example, that there is a form of due process in the other Tribunal, that the judgement was not obtained by fraud.

In other words, the debtor could raise these issues before the judgement was enforced. So, it is like a filing and then a hearing. The difference between it, as I talked with Representative Farr, before our discussion, was whether it was sort of a short calendar. The judgement itself is assumed to be all right, but you can make inquiry go further, to show that there was something different. Then, it is not enforceable.

Under current law, you have to actually bring a

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whole new law suit, start the law suit, show the same things and then collect on a Connecticut judgement itself. You have to actually win on what is called debt on a judgement. This would shorten up the judgement a bit.

REP. BELDEN: (113th)

Thank you, Representative Tulisano. One more question, if I might, Mr. Speaker? Through you?

SPEAKER STOLBERG:

Please proceed.

REP. BELDEN: (113th)

Not being that familiar with the process, Representative Tulisano, if the original case was brought in India, would the attorneys from the Connecticut business be able to appear in the court in India? And would they be able to defend or would they have to hire attorneys in India?

How would that work in terms of the due process when it was reviewed when it came back to this country for a judgment.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I'm not quite sure what the courts in India would allow, but I would suspect that they would more than likely, and if you were a good lawyer from this country, you had better want a

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lawyer from the jurisdiction in which the case is tried.

There are, as in every one of our 50 states, as an example, I can't go to Massachusetts because I'm not authorized to practice there and the same certainly would be true in foreign jurisdiction, even though, as using India, they have basically an English common law system as we do. I think we would understand it and on the other hand there are procedural pitfalls you'd have to worry about so I think you might be able to sit at the bar, as an example, I think they would probably allow that, but I don't think they would allow you to actually try the case, but they might, by motion. That's what happens in this country and I suppose we'd do the same thing there.

REP. BELDEN: (113th)

Thank you, Representative Tulisano. I think that's perhaps one more question, Representative Tulisano, maybe a statement, maybe you might confirm or reaffirm what I'm suggesting. My concern is that if we in fact pass this model, that the defense for the Connecticut company will not be able perhaps to be heard in that foreign country and with this legislation on the books, perhaps the ability to kind of try the case again will not exist anymore.

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Would you, Representative Tulisano, agree with that general conception?

REP. TULISANO: (29th)

Through you, Mr. Speaker, no, I mean I think if in fact the defense could not be rendered, that would be a denial of due process and the judgment could not be enforced in this state. When we're talking about defending the case, I think we're talking about the ability to defend the case fairly with their own defense team, but not necessarily one from the United States because that would probably -- if they were denied a defense team like from India, the right to defend the case, then I don't think that's an enforceable judgment -- that would not be an enforceable judgment because that would be a denial of due process.

REP. BELDEN: (113th)

Thank you, Representative Tulisano.

SPEAKER STOLBERG:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker, a question, through you, to Representative Tulisano.

SPEAKER STOLBERG:

Please frame your question.

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REP. KRAWIECKI: (78th)

Thank you. Representative Tulisano, a question, after I had read the bill and tinkered around with amendments, in the preliminary hearing I assume a judge is going to establish that a judgment has been rendered pursuant to Section 5 of this bill, you know, that it's not repugnant and all the rest of that stuff.

If I think that that judgment made by that judge is that the judgment in the foreign jurisdiction was fair, do I have a right to appeal that ruling?

REP. TULISANO: (29th)

Through you, Mr. Speaker, I believe that's true. Under any short calendar you have a right to bring an appeal of the statutes of the decision made by a lower court judge.

REP. KRAWIECKI: (78th)

Through you, again, Mr. Speaker, whose burden would it be then at that point? How would the fact pattern --?

REP. TULISANO: (29th)

Through you, Mr. Speaker, I would suspect what would happen, I would bring -- I'm the debtor in the United States, assuming I would be the debtor in the United States and a judgment debtor came in to try to collect against me, it was registered with the state, I

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would go into court and say, "listen, I hired three attorneys. They wouldn't let any of them appear in court. I did "x" and they wouldn't let this happen." They did not have jurisdiction over me for whatever number of reasons and if the lower court found against me, then I would have the burden of raising that issue further on.

If they found for me, I suppose the other individuals could then bring an appeal from the short calendar. I think in all cases they'd be using local counsel to do all of this, to be honest with you.

REP. KRAWIECKI: (78th)

One last question. Representative Tulisano, than rather it being a pure short calendar kind of an item, isn't it a little bit more of a hearing on damages?

REP. TULISANO: (29th)

Through you, Mr. Speaker, yea, but that's a short -- it's like a short hearing, but it is a short calendar, that's where you would do it. That's how you do hearing and damages basically.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further? Will you remark further? If not, will members please be seated. Representative

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Farr.

REP. FARR: (19th)

Mr. Speaker, for the second time.

SPEAKER STOLBERG:

Representative Farr, just a moment. Representative Farr, just a moment. Representative Farr, please proceed.

REP. FARR: (19th)

Mr. Speaker, for the second time, I'm not satisfied with Representative Tulisano's answer on the question of appeal. As I understand it, what we're saying is that this is enforceable the same way as a judgment of a sister state. My understanding of the sister state judgment is that you don't -- if you prove the judgment was valid, there is really no appeal. We're now giving the factual hearing on this matter and I don't know if the determination of the court as to that factual hearing is now the basis, a final judgment for purposes of appeal in Connecticut courts and I guess I would ask Representative Tulisano again to clarify that.

Is it in fact his understanding that the factual determination of the court on the enforcement of this judgment is a judgment from which someone could appeal? If that is in fact the case, would that mean then that there would be some 20-day stay giving you the

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opportunity to appeal?

REP. TULISANO: (29th)

Through you, Mr. Speaker. Mr. Speaker, the difference between the full faith and credit judgment of another state is a full faith and credit clause of the United States Constitution which we are required to accept it for what it is. There are certain challenges as are outlined in this. An example, on Section 5, the judgment was rendered, the foreign court did not have personal jurisdiction of the defendant as an issue. Now I suspect that we could have evidence presented that I would present evidence of the debt or that they didn't have personal jurisdiction.

The lower court would find against me and the question of what in fact personal jurisdiction becomes a question of law and I think that's the kind of thing that's appealable, not whether or not the judgment is rendered, I mean the judgment is what it is, but it's the questions of law that are found at the lower court that are generally appealable.

I mean there are facts he's going to find and he's going to make a decision that this is, under our law, personal jurisdiction and it may not be. I mean we do that, as an example, on summary process cases. We say,

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yes, the notice of quit was served in certain way. That fits the judgment, the judge would say no, but that's an appealable decision and that's what I think I'm talking about, not in fact whether the judgment was rendered is good or bad, it's whether the facts behind it are good or bad.

REP. FARR: (19th)

Yes, through you, Mr. Speaker, to Representative Tulisano, however, to clarify my question, my concern is that ordinarily when you enforce that foreign judgment, you bring it into court, you then get the execution.

If you now have a factual hearing and you can then appeal that factual hearing, normally there would be some stay before the execution was issued in order to give an opportunity for somebody to appeal that factual hearing. I'm not clear there is any stay here. I guess I have more questions than I have answers in this bill. I assume, in reading the bill, that there doesn't appear to be any stay. The person could then get the execution. He would then have to appeal it, but it would be a little late at that point because the execution would have been issued.

Representative Tulisano, could you clarify the process?

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REP. TULISANO: (29th)

I'll try. I don't know if I will. There is another law dealing with the foreign judgments and although it does talk really designed to be interstate judgments, that's the statute that says there'll be a stay. I don't think that's in this file, but there's another statute about it, I think it's a 20-day stay, and I would suspect the same would apply to this kind of a judgment.

REP. FARR: (19th)

Thank you.

SPEAKER STOLBERG:

The Chair would point out that a lot of the foreign judgments will probably be emanating from Ireland if this discussion continues and imposes on our celebrations. Will you remark further on the bill. If not, will members please be seated, staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is now voting by roll.  
Member to the Chamber please. The House is voting by roll call. Members to the Chamber please.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted and is your vote properly recorded? If so, the

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machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally?

CLERK:

House Bill 5022, Calendar 37, as amended by House Amendment Schedule "A".

Total number voting	144
Necessary for passage	73
Those voting yea	137
Those voting nay	7
Those absent and not voting	6

SPEAKER STOLBERG:

The bill, as amended, is passed.

Are there announcements or Points of Personal Privilege at this time? Representative Hoye.

REP. HOYE: (37th)

Mr. Speaker, for the purpose of two announcements, but unfortunately, one of the announcements, we had in the Galleries up until about 35 seconds ago, 44 students from Japan who are spending the week with their American counterparts from East Lyme. They have left the Chambers now and are attending a tour, taking in a tour of our very famous capitol here, but they wanted me to say hello to all the legislators here.

SPEAKER STOLBERG:

Thank you, Representative Hoye.

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SENATE

PROCEEDINGS  
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PART 3  
704-1064

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Will you remark?

SENATOR CASEY:

Thank you very much, Mr. President. This bill simply requires a savings bank getting into investments....

THE CHAIR:

We will have order, please. Senator Casey, you may proceed.

SENATOR CASEY:

Thank you again, Mr. President. This bill requires that savings banks making investments in operations over 25% involved would have to notify the Banking Commissioner. If there are no objections, Mr. President, I ask that it be placed on the Consent Calendar.

THE CHAIR:

Further remarks. Without objection, the item is placed on the Consent Calendar.

THE CLERK:

Calendar page 6, Calendar No. 161, File 44 and 179, House Bill 5022. AN ACT ADOPTING THE UNIFORM FOREIGN MONEY JUDGEMENT'S RECOGNITION ACT. (As amended by House Amendment Schedule "A"). Favorable Report of the Committee on JUDICIARY.

THE CHAIR:

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Senator Avallone.

SENATOR AVALLONE:

Yes, Mr. President, I would move the Joint Committee's Favorable Report and adoption of the bill, in accordance with the action of the House.

THE CHAIR:

Will you remark?

SENATOR AVALLONE:

Yes. House "A" merely makes the, requires rather than allows a stay of enforcement of this particular judgement or the collection of this particular judgement if an appeal is pending. Also, changes some of the language to more traditional language.

The bill itself deals with the codification of existing practices, as it relates to the collection of foreign judgements in the State of Connecticut.

THE CHAIR:

Further remarks?

SENATOR AVALLONE:

If there is no objection, I would move it to Consent.

THE CHAIR:

Without objection, the item is placed on Consent Calendar.

THE CLERK:

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return to the Chamber? Immediate roll call has been ordered on the Consent Calendar. Will all Senators please return to the Chamber?

THE CHAIR:

Please give your attention to the Clerk who will now call the items that have been placed on the Consent Calendar.

THE CLERK:

Second Consent Calendar, beginning on page 2, Calendar 42, Substitute for Senate Bill 215. Calendar page 4, Calendar 150, Substitute for Senate Bill 348. Calendar page 5, Calendar 153, Substitute for House Bill 5006. Calendar page 6, Calendar 161, House Bill 5022. Calendar page 7, Calendar 165, Senate Bill No. 334. Calendar 5, Substitute for Senate Bill 3. Calendar 51, Senate Bill 31.

Calendar page 8, Calendar No. 77, Substitute for Senate Bill 50. Calendar 159, House Joint Resolution No. 9. That completes the...

THE CHAIR:

Any changes or omissions? The machine is open.

SENATOR O'LEARY:

Mr. President?

THE CHAIR:

Please record your vote. Senator O'Leary.

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SENATOR O'LEARY:

Mr. President, a point of inquiry to you. I don't know whether or not the Clerk called Calendar 150. Perhaps inadvertently.

THE CHAIR:

He did.

SENATOR O'LEARY:

That one, we don't want on Consent.

THE CHAIR:

Would you please erase the board? Senator O'Leary, would you please make the observation again, for the benefit of the Circle?

SENATOR O'LEARY:

Thank you, Mr. President. Mr. President, <sup>SB348</sup> Calendar 150 is the one we are holding for the amendment, so we are removing that from the Consent Calendar.

THE CHAIR:

I think Clerk inadvertently called 150, which requires further action. That is not on the Consent Calendar. Any other changes or omissions? The machine is open. Please record your vote.

Senator Daniels. Senator Scott. Senator Upson. Senator Rinaldi. Senator Hale. Senator Spellman. Senator Spellman. Senator Scott. Senator Scott. Why don't you announce the roll call again?

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THE CLERK:

The Senate is still voting on the Consent Calendar. Will all Senators please return to the Chamber, to ensure that your vote is properly cast? Will all Senators please return to the Senate Chamber to ensure that your vote is properly cast?

THE CHAIR:

Senator Scott. The machine is closed. Clerk, please tally the vote.

The result of the vote:

35 Yea

0 Nay

The Consent Calendar is adopted. Senator Scott, apparently you had voted previously, and then we had to erase the board because of Clerk's inadvertent error, calling an item. And, I tried to keep it open as long as I could. But, do you wish to be...?

SENATOR SCOTT:

I appreciate that, and I would like to be recorded in the affirmative, if I may.

THE CHAIR:

The record will so note.

SENATOR SCOTT:

Thank you.

THE CHAIR:

JOINT  
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JUDICIARY

February 10, 1988

GORDON HALL: Thank you.

REP. TULISANO: The rules now say that we must go to the public list. There are more non-public than public. Is there a Mr. Lowry? We will try to alternate and get everybody an opportunity to speak in a timely manner, so that we can be, get enough information for the Committee.

HOUSTON LOWRY: Thank you, Representative Tulisano. My name is Houston Lowry. I am Chairman of the Connecticut Bar Association's Section of International Law.

We would like to speak in favor of House Bill 5022, which basically allows and codifies present existing law to allow courts of Connecticut to enforce foreign money judgements within Connecticut. The exceptions are taxes... Tax judgements for foreign countries wouldn't be enforced. Penalties for foreign countries, and matrimonial and family matter judgements wouldn't be enforced. It only enforces money judgements, so you don't have to worry about strange judgements.

The bill allows for some exceptions, which I think are self-explanatory and probably a good idea. If there are no questions on that, I would like to make some brief comments in my personal capacity on Raised Committee Bill No. 9, on trade name certificates.

I think, I cannot see any reason to have dual filing in the Secretary of State and the towns. I would urge the towns be omitted, and everything be filed in the Secretary of State, just like the old limited partnerships for awhile. Dual filings were required. All it does is it makes life difficult.

What is the effect if you file in one place, but you don't file in the other? Why keep two sets of files, if you can keep one good set across the street on Trinity Street?

I have a question, which is sort of a hypothetical question, really, on sub-section (i), which is on page 4. It says: the failure to comply with the provisions of this section shall be deemed an