

THE CONNECTICUT GENERAL ASSEMBLY

THE HOUSE OF REPRESENTATIVES

Monday, March 12, 2018

(The House of Representatives was called to order at 11:00 o'clock a.m., Representative Aresimowicz of the 30th District in the Chair.)

(On motion of Representative Albis of the 99th District, the House recessed at 11:01 o'clock a.m., to reconvene at the Call of the Chair.)

(The House reconvened at 11:50 o'clock a.m., Speaker Joe Aresimowicz in the Chair.)

CLERK: The House of Representatives will convene immediately, members to the Chamber.

SPEAKER ARESIMOWICZ (30TH):

(Gavel) Will the House please come to order?
Ladies and gentlemen, there are Caucuses that are still going on, so we're going to delay a little bit, but as is tradition we wanted to Gavel in right at 11:00 o'clock. We should be out in about 15 minutes and then we'll do our normal proceedings for the day. Representative Albis.

REP. ALBIS (99TH):

Thank you, Mr. Speaker. I move that we recess subject to the Call of the Chair.

SPEAKER ARESIMOWICZ (30TH):

So ordered. (Gavel)

CLERK:

The House of Representatives will reconvene immediately. Members to the Chamber. The House of Representatives will reconvene immediately. Members to the Chamber.

SPEAKER ARESIMOWICZ (30TH):

(Gavel) Will the House please come to order?

Will the members, staff and guests please rise and direct your attention to the Dias where Imam Refai Arefin will lead us in prayer.

DEPUTY CHAPLAIN IMAM REFAI AREFIN:

Thank you, Mr. Speaker. Let us pray.

We remember that March is Women's History month. Thank you for all the cherished women in our lives and in our histories, mothers, sisters, friends, neighbors and leaders.

God, may women across the globe continue to be empowered, knowing the love You offer. May we learn from all those voices that have been left unheard, from those voices that are different from our own. Enable us to follow their lead and do all that we can to further the cause of harmony in the world. To this end do we seek Your blessing. Amen.

(ALL) Amen.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much. Will Representative Hilda

Santiago please come to the Dias and lead us in the Pledge of Allegiance?

REP. HILDA SANTIAGO (84TH):

(ALL) I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Ma'am. Is there any business on the Clerk's desk?

CLERK:

Yes, Mr. Speaker. There's communications from the Speaker of the House of Representatives, committee assignments.

SPEAKER ARESIMOWICZ (30TH):

Representative Albis.

REP. ALBIS (99TH):

Thank you, Mr. Speaker. I move that we waive

the reading of the list of Bills and the Bills be referred to the committees indicated.

SPEAKER ARESIMOWICZ (30TH):

So ordered. Any other business, Mr. Clerk?
Mr. Clerk, on that first one order it printed in the Journal.

CLERK:

So, list of Bills No. 21, dated March 12th, 2018.

SPEAKER ARESIMOWICZ (30TH):

Representative Albis.

REP. ALBIS (99TH):

Thank you, Mr. Speaker. I move that we waive the reading of the list of Bills and the Bills be referred to the committees indicated.

SPEAKER ARESIMOWICZ (30TH):

So ordered.

CLERK:

The last piece of business is the daily calendar.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, Mr. Clerk. Are there any announcements or introductions? Representative D'Amelio of the 71st, you have the floor, sir.

REP. D'AMELIO (71ST):

Thank you, Mr. Speaker. I rise for a point of personal privilege.

SPEAKER ARESIMOWICZ (30TH):

Please proceed, sir.

REP. D'AMELIO (71ST):

Mr. Speaker, today I have with me my daughter Krista who is visiting Connecticut from the great State of Washington D.C., where she is the Director of Government Affairs and Communications for the Bankruptcy Attorney Association. Krista is no stranger to this Chamber, she was eight years old when I first got elected to this Chamber and she

knows the hallways very well and she also interned for then Lieutenant Governor Michael Fedele. So, I ask everybody, please, give her a warm welcome.

[Applause]

SPEAKER ARESIMOWICZ (30TH):

Welcome back, Krista. Representative Urban of the 43rd, you have the floor, Madam.

REP. URBAN (43RD):

Thank you, Mr. Speaker. For the point of personal privilege, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Please proceed.

REP. URBAN (43RD):

Mr. Speaker, many people have been coming up to me and wondering why I have a cane and why I have a knee brace and why I have a back brace, so I thought I would share with the Chamber so that I don't have to tell the story 151 times. We have a rescue dog who is 85 pounds and he thinks that his job is to

chase any flying object at maximum warp. I also have a husband who used to be 63, but apparently, he's five now and we were walking on a woods path, I was ahead of him with our goddaughter and he thought it would be a good idea to float this frisbee over our heads and wouldn't that be fun.

The only bad part was that there wasn't enough room for the 85-pound flying I guess enterprise who then took me out on my right side which gave me a stress fracture in my back. So, I have a stress fracture in my back. I have a torn meniscus and a husband who is living in the doghouse, which I will tell you is insulated, so it is proper shelter. Thank you, Mr. Speaker. [Laughter]

SPEAKER ARESIMOWICZ (30TH):

I'm not sure whether to say thank you or not, Madam, but we appreciate the announcement.

Representative Demicco of the 21st District, you have the floor, sir.

REP. DEMICCO (21ST):

Thank you, Mr. Speaker. Mr. Speaker, I rise to request a moment of silence.

SPEAKER ARESIMOWICZ (30TH):

Please proceed, sir.

REP. DEMICCO (21ST):

Thank you, Mr. Speaker. Mr. Speaker, the community that I represent, Farmington, suffered a loss last week with the untimely passing of John Patrick "Jack" Matava.

Jack resided in Farmington his entire life, marrying Debbie, raising two children and operating his family's auto repair shop in the Unionville section of town.

Jack was known throughout Farmington for his friendly personality, his extremely generous nature, and for going out of his way to help people. He loved his hometown and the people in it and he gave back to the community by serving for many years as a thoughtful and respected member of the Plan and

Zoning Commission.

As a colleague put it, he truly was the "heartbeat of the community." I would respectfully ask the Chamber for a moment of silence in remembrance of a good and generous man. Jack Matava.

SPEAKER ARESIMOWICZ (30TH):

Can we all please stand and give a moment of silence for Jack, please. (Gavel) Thank you Representative. Ladies and gentlemen of the Chamber, we also have a special guest with us here today. In 1991, the State of Connecticut established the State Troubadour, part of that mission is the Ambassador of Music and Song and promotes cultural literacy amongst the Connecticut citizens. If we can now have Kate Callahan come up onto the Dias and she's going to perform for us.

[Applause]

KATE CALLAHAN:

Thank you, Mr. Speaker. And good morning

Representatives. I've grown accustomed to performing for audiences and rooms full of people who have no idea that we have a State Troubadour. I don't want to guess what the percentage is here, but we do have a State Troubadour, I am serving in this term until the end of April, it's a two-year term.

I'm going to start -- I have two songs for you. I'm going to start with a song that I wrote for my application to become Troubadour, it's a song about Connecticut. [Performs song] [Applause] Thank you. Thank you. And there are three things that I say a folk singer should be able to do. She should be able to talk while she tunes her guitar. She should be able to interpret songs of those who've become before her and she should be able to get her audience to sing. So, I'm going to ask you Representatives to sing with me this morning. Oh, my goodness. Clear your throats, pick up those mics. The three words I'm going to ask you to sing are love rings out. [Second song performed] [Applause]

SPEAKER ARESIMOWICZ (30TH):

Let's hear it for our State Troubadour.

[Applause] Will the Clerk please call House Calendar No. 13.

CLERK:

House Calendar No. 13, House Joint Resolution No. 9. RESOLUTION CONFIRMING THE NOMINATION OF THE HONORABLE DENNIS G. EVELEIGH OF HAMDEN TO BE A STATE REFEREE.

SPEAKER ARESIMOWICZ (30TH): Representative Stafstrom of the 129th, you have the floor, sir.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Mr. Speaker, I move for acceptance to Joint Committees Favorable Report and adoption of the Resolution.

SPEAKER ARESIMOWICZ (30TH):

The question before the Chamber is on accepting Joint Committees Favorable Report and adoption of the Resolution. Representative Stafstrom.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Mr. Speaker the Resolution before us is to confirm the nomination of the Honorable Dennis Everleigh to term as a State trial referee serving on our Appellate Court and filling in as an as needed basis on our Appellate Court System.

Justice Everleigh formerly was a Superior Court Judge and then was elevated to the Supreme Court in the last year of the Jodi Rell Administration in 2010. He has served with distinction in his one term on the Supreme Court and worked on many of our State's most consequential cases that came before the Supreme Court during that time. He reached the mandatory retirement age late last year and would like to continue to serve our Court System as a Judge Trial Referee.

I urge the Chamber support of his nomination.

SPEAKER ARESIMOWICZ (30TH):

Representative Rebimbas of the 70th District,

you have the floor, Madam.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the nominee before us. He certainly is very well qualified and has become an asset as a Trail Judge Referee on the Appellate Court. He did pass the judiciary committee unanimously. And just to take this opportunity to thank him for his service to our Country as well. I do rise in support of Judge Everleigh.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, Madam. Will you remark further? Will you remark further on the Resolution before us? If not, staff and guests please come to the Well of the House, members take your seats, the machine will be open. [Bell ringing]

CLERK:

The House of Representatives is voting by roll. Members to the Chamber. The House of

Representatives is voting by roll. Members to the Chamber.

SPEAKER ARESIMOWICZ (30TH):

Have all the members voted? All the members that voted, please check the board to ensure your vote has been properly cast. All the members have voted. The machine will be locked, the Clerk will take a tally. The Clerk will now announce the tally.

CLERK:

House Joint Resolution No. 9.

Total number voting	146
Necessary for adoption	74
Those voting Yea	116
Those voting Nay	30
Absent not voting	5

SPEAKER ARESIMOWICZ (30TH):

The Resolution is adopted. Will the Clerk

please call House Calendar No. 27?

CLERK:

House Calendar No. 27, House Joint Resolution
No. 24, RESOLUTION CONFIRMING THE NOMINATION OF THE
HONORABLE KEVIN TIERNEY OF GREENWICH TO BE A STATE
REFEREE.

SPEAKER ARESIMOWICZ (30TH):

Representative Stafstrom of the 129th District.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Mr. Speaker, I move
for acceptance to Joint Committees Favorable Report
and adoption of the Resolution.

SPEAKER ARESIMOWICZ (30TH):

The question before the Chamber is on
acceptance of Joint Committees Favorable Report and
adoption of the Resolution. Representative
Stafstrom.

REP. STAFSTROM (129TH):

Mr. Speaker, the Resolution before us confirms the nomination of the Honorable Kevin Tierney who was initially appointed to the Superior Court Bench in 1993. He served under Superior Court Bench until 2010 when he took senior status as a State Referee.

He continues to serve our Court working a significant number of days. He reports that in the last year alone he tried 45 cases down on the civil docket in the Stamford Norwalk Judicial District.

I urge support.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, sir. Representative Rebimbas of the 70th. You have the floor, Madam.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the nominee. He did pass Judiciary unanimously, still very sharp and it's an asset to have an individual with such great experience continuing to serve us.

And I also want to take the opportunity to acknowledge his good serve to our Country as well and thank him for that. So, I rise in his support.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, Madam. Will you remark further? I guess I can say this, my favorite legislature, Representative Floren of the 149th District, you have the floor, Madam.

REP. FLOREN (149TH):

Thank you. You're very kind, but everybody already knows that. I have known Superior Court Justice Kevin Tierney and his family, his wife Marianne and his children Michael, Sean and Kim for more than four decades. It's a friendship that has spanned three generations.

Kevin is an outstanding jurist, he served on the Superior Court since 2002. He is also a very respected civic leader, one who possesses a world class sense of humor.

Greenwich could not hold its annual St. Patrick's Day Parade if it weren't for Kevin and his Kiwanis Colleagues, they cheerfully organize the chaos. It's a privilege to support Justice Kevin Tierney's next chapter in public life. Thank you.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, Madam. Representative Camillo of the 151st District. You have the floor, sir.

REP. CAMILLO (151ST):

Thank you, Mr. Speaker. Your second favorite I assume. [Laughter]

SPEAKER ARESIMOWICZ (30TH): But of course.

REP. CAMILLO (151ST): Okay. Thank you. I want to echo the remarks of Representative Floren. I stand in strong support of Judge Kevin Tierney, great man. Greenwich native, served in the Army and has been on the bench for about 25 years. Still very, very active in town and a lot of civic organizations and

again, you couldn't ask for a better guy. So, I urge adoption and thank you.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much Representative. Will you remark further on the Resolution before us? If not, staff and guests to the Well of the House. Members take your seats. The machine will be opened. [Bell ringing]

CLERK:

The House of Representatives is voting by Roll. Members to the Chamber. The House of Representatives is voting by Roll, members to the Chamber.

DEPUTY SPEAKER ORANGE (48TH):

Have all Members voted? Have all members voted? Please check the board to determine if your vote has been properly cast. If so, the machine will be locked and the Clerk will take a tally. And will the Clerk please announce the Tally.

CLERK:

House Joint Resolution No. 24.

Total number of voting	147
Necessary for adoption	74
Those voting Yay	145
Those voting Nay	2
Absent not voting	4

DEPUTY SPEAKER ORANGE (48TH):

The Resolution passes. Will the Clerk please call calendar No. 11?

CLERK:

Calendar No. 11, House Joint Resolution No. 7, RESOLUTION CONFIRMING THE NOMINATION OF THE HONORABLE JOHN C. DRISCOLL OF NORWICH TO BE A JUDGE OF THE SUPERIOR COURT. Favorable Report of the Joint Standing Committee on Judiciary.

DEPUTY SPEAKER ORANGE (48TH):

Representative William Tong, you have the floor, sir.

REP. TONG (147TH):

Good afternoon, Madam Speaker.

DEPUTY SPEAKER ORANGE (48TH):

Good afternoon, sir.

REP. TONG (147TH):

Nice to see you in Colchester the other night.

DEPUTY SPEAKER ORANGE (48TH):

Yes, we had a great time. Thanks for coming.

REP. TONG (147TH):

Madam Speaker, I move acceptance of the Joint Committees Favorable Report and adoption of the Resolution.

DEPUTY SPEAKER ORANGE (48TH):

The question before the Chamber is on acceptance of the Joint Committees Favorable Report

and adoption of the Resolution. Representative
Tong.

REP. TONG (147TH):

Thank you, Madam Speaker. We're considering the nomination of Judge Driscoll, his reappointment as a Judge of the Superior Court, Judge Driscoll has served the Connecticut Judicial Branch as a Superior Court Judge since 1994. He is among some of the most experienced on our State Court.

He has been assigned mostly the juvenile matters for almost his entire judicial career and he'd like to continue in that assignment, that's why he's on the Juvenile Practice Book Task Force. He's a graduate of Georgetown and the University of Connecticut Law School. He is very active in his community. He is a life member of the Friends of the Otis Library in Norwich, he's the former president of the library board and he's a member of the Guild of Catholic Lawyers in the Dioceses of Norwich.

He impressed us with his long-standing commitment to our Superior Court, his knowledge of the law and I urge adoption.

DEPUTY SPEAKER ORANGE (48TH):

The question before the Chamber is on adoption. Will you remark further, Representative Rebimbas?

REP. REBIMBAS (70TH):

Thank you, Madam Speaker. Good afternoon to you. Madam Speaker, I rise in support of the nominee before us, certainly for all of the good comments that the good chairman had provided.

Judge Driscoll does provide a great knowledge of professionalism on the bench as well as the juvenile matters, which is not an easy area of the law to be a judge serving on. So, I do rise in his support and I do believe that specifically his application I just want to commend him for having a very complete response to the questions. It's something that's certainly appreciated by the committee in that regard, so I do rise in his

support.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Will you care to remark, Representative Riley, you have the floor, sir.

REP. RILEY (46TH):

Thank you, Madam Speaker. I as well stand in strong support for the re-nomination of Judge Driscoll, I've known him my entire life and if you look at my hair you can see how old that I am. He's done a wonderful job as a Family Court Judge and I think that he serves the State well and it would be an honor to continue to do just that. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Will you care to remark further on the Resolution before us? Will you care to remark further on the Resolution before us? If not, staff and guests please come to the Well of the House. Members take your seats the machine will be open. [Bell ringing]

CLERK:

The House of Representatives is voting by Roll.
Members to the Chamber. The House of
Representatives is voting by Roll. Members to the
Chamber.

DEPUTY SPEAKER MORIN (28TH):

Have all the members voted? Have all the
members voted? Will members please check the board
to determine if your vote is properly cast. If all
members have voted the machine will be locked and
the Clerk will take a tally. Will the Clerk please
announce the Tally?

CLERK:

House Joint Resolution No. 7.

Total number of voting	147
Necessary for adoption	74
Those voting Yay	144
Those voting Nay	3

Absent not voting 4

DEPUTY SPEAKER MORIN (28TH):

The Resolution is adopted. Will the Clerk please call Calendar No. 8?

CLERK:

Calendar No. 8 House Joint Resolution No. 4,
RESOLUTION CONFIRMING THE NOMINATION OF THE
HONORABLE LAURA F. BALDINI OF WEST HARTFORD TO BE A
JUDGE OF THE SUPERIOR COURT. Favorable Report of
the Joint Standing Committee on Judiciary.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Good afternoon, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Good afternoon.

REP. STAFSTROM (129TH):

Mr. Speaker, I move for acceptance of Joint Committees Favorable Report and adoption of the Resolution.

DEPUTY SPEAKER MORIN (28TH):

The question before the Chamber is on acceptance of the Joint Committees Favorable Report and the adoption of the Resolution. Representative Stafstrom you have the floor, sir.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Mr. Speaker, the Resolution before us is confirming the re-nomination of Judge Baldini.

Judge Baldini in her short time on the Bench has risen quickly through the ranks. And is currently the Presiding Judge for Part A, the most serious criminal matters in the Hartford Judicial District.

She is a graduate of Yale University and the Seton Hall University School of Law. We've received

significant commentary from practitioners before her Court who found her to be a fair jurist, reasonable minded and even handed in her deliberations.

We urge support for her re-nomination.

DEPUTY SPEAKER MORIN (28TH):

Thank you, Representative. Will you remark further? Representative Rebimbas.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of Judge Baldini certainly for all of the reasons the good vice chair just mentioned and she continues also to give back to the legal community in sharing her expertise and improving the system. She certainly has many already several years of experience and as he indicated certainly has moved up the ranks because she is fair-minded and partial.

She is an asset to our judicial branch and I rise in her support.

DEPUTY SPEAKER MORIN (28TH):

Thank you, Representative. Would you care to remark further? Would you care to remark further on the Resolution before us? If not, will staff and guests please come to the Well of the House. Will the Members please take your seats, the machine will be open. [Bell ringing]

CLERK:

The House of Representatives is voting by Roll. Members to the Chamber. The House of Representatives is voting by Roll. Members to the Chamber.

SPEAKER ARESIMOWICZ (30TH):

Have all the members voted? If all the members have voted please check the board to ensure your vote has been properly cast. If all the members have voted, the machine will be locked and the Clerk will take a tally. The Clerk will announce the Tally.

CLERK:

House Joint Resolution No. 4.

Total number of voting	148
Necessary for adoption	75
Those voting Yay	145
Those voting Nay	3
Absent not voting	3

SPEAKER ARESIMOWICZ (30TH):

The Resolution is adopted. (Gavel) Will the Clerk please call Calendar No. 28

CLERK:

Calendar No. 28, House Joint Resolution No. 25, RESOLUTION CONFIRMING THE NOMINATION OF THE HONORABLE ANDREW J. MCDONALD OF STAMFORD TO BE CHIEF JUSTICE OF THE SUPREME COURT AND A JUDGE OF THE SUPERIOR COURT Unfavorable Report of the Joint Stand Committee on Judiciary.

SPEAKER ARESIMOWICZ (30TH):

Ladies and gentlemen of the Chamber, before we

take up this Resolution, I would like to remind the Members that we're considering an Unfavorable Report of the Judiciary Committee. Consideration of an Unfavorable Report is a two-step process. If it includes a vote on the underlying resolution, the first step is consideration of the Chamber whether to reject the committee's Unfavorable Report. The second step is consideration of the underlying resolution. Representative Tong.

REP. TONG (147TH):

Good afternoon, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Good afternoon.

REP. TONG (147TH):

I move rejection of the Committee's Unfavorable Report.

SPEAKER ARESIMOWICZ (30TH):

The question before the Chamber is on rejection of the Committee's Unfavorable Report, at this time

I would request that the members confine their remarks to whether to reject the Unfavorable Report or not. Representative Tong?

REP. TONG (147TH):

Mr. Speaker, just in brief, the Committee voted 20/20, it tied, but that is in effect an Unfavorable Report and I urge rejection of the Unfavorable Report so we can consider the underlying nomination.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, sir. Will you remark further? Representative O'Neill of the 69th District, you have the floor, sir.

REP. O'NEILL (69TH):

Thank you, Mr. Speaker. I would speak against rejected the Unfavorable Report. The first point that I would make is that in the years that I've been in this Chamber I cannot recall a single instance in which an Unfavorable Report regarding a justice or a judge of the court system has been

rejected.

I've been here a long time and I don't necessarily remember every detail, but I cannot recall ever that the Judiciary Committee's Unfavorable Report regarding a justice was overturned. And I think that it represents an unprecedented departure from the process that we normally follow.

The Judiciary Committee is made up of members, many of whom are attorneys, but many of whom are not who spend a tremendous amount of time carefully reviewing the credentials, the backgrounds, asking lots of questions. We frequently have hearings that run for hours as in this particular case, the number has been offered up as 13 hours, actually it was a little less than that because we took up other matters in between the beginning and the end of the hearing.

But still, it was a great many hours. There are questionnaires that are filled in by the Judicial Nominees, there are documents that are

presented to us to explain their positions. There are cases that they have written that we carefully review.

The Judiciary Committee in the 28 plus years that I have served on it has always very, very carefully reviewed the credentials of judges and very rarely, very rarely does the Judiciary Committee not favorably report a judge. It is in and of itself, this is an exceptional action to have occur within the Judiciary Committee.

For this Chamber to reject this I believe is to reject a process it has put in place and a process that has served this Chamber and the State of Connecticut well for many, many years.

It would basically say to the Judiciary Committee we don't really care that much about the decision you made. This is not a matter of reviewing a Bill and looking at the language and coming to a different judgement.

I doubt that very many people in this Chamber

are going to go and/or would have spent the time to watch the 13-hour public hearing, which fortunately is available through CTN, but as far as I know the transcript of that hearing is not yet even available.

So, if someone wanted to read the transcript to carefully study the questions and the answers they would not have that opportunity at this time. So, for this report to be rejected, especially at this moment when even the transcript of the public hearing isn't even available I think would be inappropriate.

And I think it sends the wrong message to the Committee, the committee members who dedicate tremendous amount of time to these careful considerations of the Judicial Nominees, to the people who appear before the Judiciary Committee, who testified and in many cases wait five, ten hours or late into the night for the opportunity to testify and to answer questions in front of the Judiciary Committee and that includes the witnesses

who come at some great effort and in many cases to testify about a judicial nominee.

I understand that this is a very important nomination. The Chief Justice is the head of the system, but again, for us to reject and I believe that this is certainly unprecedented in my tenure here and if someone else has better information I would be happy to hear it, but I'm not even sure this has ever been done certainly with a Chief Justice nomination to reject the decision of the Judiciary Committee.

So, I would urge the Chamber to please keep with the precedence that we have had for so long that has served us so well in determining the outcomes of the Judicial Nomination process. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Will you remark further? If not, staff and guests to the Well of the House. Members take your seats. The machine will be open. [Bell ringing]

CLERK:

The House of Representatives is voting by Roll.
Members to the Chamber. The House of
Representatives is voting by Roll. Members to the
Chamber.

SPEAKER ARESIMOWICZ (30TH):

Have all the members voted? If all the members
have voted, please check the board to ensure your
vote has been properly cast. If all the members
have voted, the machine will be locked. The Clerk
will take a Tally. The Clerk will announce the
Tally.

CLERK:

House Joint Resolution No. 25.

Total number of voting	148
Necessary Reject Unfavorable Report	75
Those voting Yay	79
Those voting Nay	69

Those absent not voting 3

SPEAKER ARESIMOWICZ (30TH):

The motion passes. (Gavel) The Unfavorable Report is now rejected. We are now moving onto the next step in the process, which is to vote on the Resolution confirming the nomination of the Honorable Andrew McDonald to be Chief Justice of the Supreme Court. In accordance with Joint Rule 20, which allows for an Unfavorable Report of the Judiciary Nomination to be acted upon immediately I would now ask the Clerk to please call House Calendar 28.

CLERK:

House Calendar 28, House Joint Resolution No. 25, RESOLUTION CONFIRMING THE NOMINATION OF THE HONORABLE ANDREW J. MCDONALD OF STAMFORD TO BE CHIEF JUSTICE OF THE SUPREME COURT AND A JUDGE OF THE SUPERIOR COURT.

SPEAKER ARESIMOWICZ (30TH):

Representative Tong of the 147th District, you have the floor, sir.

REP. TONG (147TH):

Mr. Speaker, I move adoption of the Resolution.

SPEAKER ARESIMOWICZ (30TH):

Question before the Chamber is on acceptance of the Resolution and for acceptance of the now Joint Committees Favorable Report and adoption of the Resolution. Representative Tong?

REP. TONG (147TH):

Thank you, Mr. Speaker. This afternoon we will consider the nomination of the Chief Justice of the Connecticut Supreme Court. This is an infrequent and very special responsibility that we must discharge because we in concurrence with the Senate will select the leader of a separate but co-equal branch of government.

In the other branches the voters choose the Governor, Mr. Speaker, the voters choose you. But

the people do not vote for the Chief Justice or any judge for that matter, we do in concurrence with our friends upstairs and we are exercising our duty to select a constitutional officer who will likely serve for years to come. And so that's why it's so important to consider what the job of the Chief Justice is.

The Chief Justice is not a super justice, the Chief Justice is not more of a justice than the other justices, he or she has the same single vote and the ability to write opinions, but the Chief Justice, the way the Chief Justice is different is that the Chief Justice is the Chief Executive Officer of the Judicial Branch. The administrative leader of the Superior, Appellate and Supreme Courts of the Court Support Services Division. Of probation, of the courthouses and the physical plan.

The Chief Justice is in charge of courthouse security and the budget. So, the Chief Justice is to the Judicial Branch as the Governor is to the Executive and the Speaker and Lieutenant Governor

and the Senate Pro Tem, President Pro Tem are to the Legislature. And that's why it's so important this afternoon, Mr. Speaker, that we get this right. And we have the opportunity to get this right with this Nominee, Justice Andrew McDonald.

I say that because I'm not sure there's anybody in this State more qualified, more prepared, readier to do this job, the job of Chief Justice of the Connecticut Supreme Court than Justice McDonald. There are a few judges and few lawyers who have the depth and the breath of his experience as a judge and an administrator and as a public servant.

Justice McDonald began his public service career in his hometown of Stamford where he served in several branches of local government. He served on the Board of Representatives, the Legislature. He then served on the Board of Finance, culminating in his work as Corporation Counsel for the City of Stamford and in that role, he ran the Law Department, the HR Department, the Benefits Department.

And so, in Stamford he gained critical experience running departments with many people and being an administrator of a legal function. He was then elected to State Government as a State Senator representing Stamford and Darien and Justice McDonald then became Chairman of the Judiciary Committee where he served for eight years.

He worked on countless Bills and Resolutions, hundreds of Judicial nominations, worked arm and arm with the Attorney General, the Judicial Branch, the Probate Court System, saw every facet of the State's legal system.

And then he had the opportunity to move over to the Executive Branch where he served as General Counsel to the Governor. And in that role, he led the Governor's Counsel's Office and his staff there, but also had a supervisory responsibility for all the lawyers across the Executive Branch and he helped the Governor run a State Government of thousands upon thousands of employees.

Moving on from his Executive Branch experience,

Justice McDonald then became a Justice, an Associate Justice of our State's highest court where he has served for five years. And so just to summarize I say there are few people who have his quantum of experience because there are few people in this State today who have served at the highest levels in every branch of Government. Legislative, Executive and Judicial. I can think of maybe one or two others, maybe Judge Genuario who served as a State Senator and then the Secretary of OPM and now as a Judge of the Superior Court where he does a very good job in Stamford.

So, we're considering this morning or this afternoon the qualifications of an Associate Justice of the Supreme Court to serve as the Chief Justice and the Administrative Head of the entire branch.

Let me tell you what we're not doing this afternoon. We are not considering whether Justice McDonald is qualified to be a justice. We answered that question five years ago. Judicial selection answered that question twice and most recently the

judicial selection commission answered that question with respect to Justice McDonald's fitness and qualifications to be the Chief Justice and they passed him out of the commission with overwhelming support.

We answered it in this Chamber, well first in the Judiciary Committee 40 to 2 that he was qualified to be a Justice. 125 to 20 in this Chamber and then 30 to 3 in the Senate. And the Senate Republican President recently remarked that Justice McDonald is bright, brilliant and qualified.

Now there are some suggestion that Justice McDonald is not now qualified because he was not a judge before he became a Justice. Except now he's been a Justice for five years sitting on almost 500 cases, writing 100 opinions.

So, I'm not going to tell you today where he went to law school or about his over 20 years of practice as a litigator in State and Federal Courts here in Connecticut. We know all of that already. We considered that five years ago and overwhelmingly

elevated him to the Supreme Court.

Justice McDonald is not just eminently qualified, he's ready. There were very few questions during the Judiciary Committee's hearing of almost 13 hours about his views on Courthouse security and transparency in the Branch, the budget, there were very few questions about the nuts and bolts of the Chief Justice's job. And I would pause it that maybe that was because he is more qualified than many of his predecessors just based on his experience to do this job.

Chief Justice Rogers nominated by Governor Rell was a Superior Court Judge, served on the Appellate Court for a year, had never run a large legal organization, did a great job as Chief Justice.

Chief Justice Sullivan was on the Superior Court, two years on the Appellate Court before he became Chief Justice, had a similar experience.

Chief Justice Ellen Peters was not a judge before she became a justice and then she became the

Chief Justice and just by frame of reference Justice John Roberts the Chief Justice of the United States Supreme Court served two years in the Court of Appeals before becoming Chief Justice where he runs the entire Judicial Branch at the Federal Level.

Justice McDonald has served our State ably and the Judicial Branch very well for five years as an Associate Justice, he has served at the highest levels in State Government in all three branches. He's run large organizations. I urge you to support his nomination today because Justice McDonald is ready on day one. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Tong. Would you remark further? Representative Rebimbas of the 70th district. You have the floor, ma'am.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker. Mr. Speaker, I'd like to start off by congratulating Justice McDonald on his nomination. The nomination itself is a great

honor and a testament to his professional experience and qualifications that the Governor saw fit for his position as the nominee to become Chief Justice.

I would also like to thank Justice McDonald for his willingness and time that he took in reaching out to different members to meet with them and talk to them on the phone. I'm going to begin today in a little unconventional way, I typically stand and say I support or don't support the resolution before us. I then dive into the analysis that I and others reach in order to state our opinions.

Today, I want to start by dispelling several false accusations. I will begin by sharing a quote that I believe fits this situation. By Garry Kasparov, a great chess player and writer. The quote is as follows: The point of modern propaganda isn't only to misinform or push an agenda, it is to exhaust your critical thinking and annihilate the truth.

I'd like to address a false accusation. First, I'd like to make it clear that the sexual

orientation of this or any nominee that comes before us is not a factor.

Let me clarify that. We all want to see diversification in our judicial system. And that may or may not include someone's sexual orientation and in fact, for some people it may not be a factor. But I can tell you that it is not a negative factor. So, whether or not people vote in favor of Justice McDonald, whether republican or democrat, actually, let me correct that. Whether someone votes against Justice McDonald whether republican or democrat it is not based on sexual orientation. That is false. The truth is Justice McDonald was voted and elevated to the Connecticut Supreme Court with the support of republicans and democrats. The truth is we've had many republican representatives and even candidates for office that have different types of sexual orientations and are members of the LGBT community.

We share friends and family members who are members of the LGBT community. For anyone to falsely suggest that a negative vote against this

nominee is other than the qualifications that will be highlighted and that was highlighted in an over 12-hour Public Hearing Judiciary Committee is wrong and shocking when it comes from individuals who have worked with parties on both sides of the aisles.

So, let's together stop perpetuating these false allegations of discrimination by people or a particular party when it is not true in this situation.

Another false accusation I'd like to address is that the political, this is political because the democrat nominee is being suggest or nominated by a democrat Governor. The party affiliation of this nominee has nothing to do with the individuals qualifications or our analysis of his ability to serve as Chief Justice.

If Justice McDonald is voted on favorably he will go onto become Chief Justice. If he is not, we still have a democrat Governor who could still nominate a different individual from any party that he sees fit. So, this is not political because of a

political party.

Another false accusation is that republicans are playing Washington politics. The last time I checked I and everyone in this room lives and serves in the State of Connecticut. The public hearing was provided to this nominee, there was no obstruction to that. And the only Washington connection that I'm aware of is some of our federal representatives reaching out to members in support or not in support of the nominee. They have the right to do that.

Certainly, there was also a false and despicable commercial that had some connection to allegations of Washington, but I won't even address that because that's how disrespectful that was. So, there's no Washington politics being done by the Republican Party. Also, the false accusation if this nominee is not confirmed it will cause great damage to the Judicial Branch.

The Judicial Branch is a long-standing institution established back in 1784, but only in 1818 when the first Connecticut Constitution was

adopted it set forth a doctrine of separation of powers and established the three separate branches of Government. The Judicial Branch has had its ups and downs for a variety of reasons over the years and no matter what the outcome is here today or as this nominee moves forward if he does to the Senate the Judicial Branch will be intact.

And in fact, I'll highlight that as well as one of the historical things that did have a negative impact on the Judicial Branch later on. Another false accusation is the questioning of Justice McDonald for approximately 12 to 13 hours, I believe I was less than 13, because we had some other Justice's in there, it was unprecedented. Folks, that's not unprecedented. We have had other judges come before us that we have questioned for a lengthy period of time, we've had legislation that comes before us that has gone for a long period of time. Quite frankly, I didn't want other judges to be there on the same day because we didn't know how long it was going to take. We never thought it was

going to be that long, but it certainly does show the importance of the position that this nominee is seeking. And I certainly don't think it's unprecedented and there's many other things that have been done that was unprecedented in this State, that again, this is just not unprecedented.

So, why is this position of Chief Justice so important and deserving of such lengthy questioning in responses. It's because as it was mentioned by the Chairman earlier, the Chief Justice is the leader of the highest court in the State of Connecticut. The Chief Justice is the leader of the Judicial Branch. The entire Judicial Branch.

So, it's not just enough that we determine the ability of an individual to serve as a Justice, it's just as equally important for us to make sure that that individual could be the leader of this Judicial Branch. I do not believe anyone questions Justice McDonald's intellectual ability, certainly it wasn't something that's been brought to my attention, but we need to evaluate the other qualifications. We

have Justice McDonald's professional career and his service while on the Connecticut Supreme Court.

We look at how his prior professional positions may or may not have impacted the service on the bench. And how he reasoned through those decisions. Decisions such as whether or not to sit on cases and the impact that in his decisions to bring outside information in the evaluation of the cases that come before him. I won't touch upon all of these, because I know there will be other members that will want to speak, but I certainly will highlight a few points in that regard.

Specifically, just to -- I also want to address I believe the good Chairman had indicated that we should not be looking at the Justice's qualifications that was done five years ago. And I think to a certain extent he is correct, that that evaluation was done by some members in this Chamber, but not all members were serving five years ago. Also, we have the ability to judge on all grounds whether as a nominee to the Chief Justice is a

reflection of how he served as a Justice these past five years on the bench.

So, I think that it is an important point that we all make. Also, it was indicated that the nuts and bolts of the Branch was in question during the Judiciary Committee. That's because to the credit of Justice McDonald and his statement he shared already with us what his thoughts and opinions and aspirations would be for the Judicial Branch if he were to be appointed as Chief Justice. So, I think that's why the Committee took the time to really highlight some of the other items that in his service as Chief Justice.

Now we heard many references to a variety of different cases that Justice McDonald served on. And we talked at great length about decisions to recuse himself or not recuse himself in specific cases. One case or let's talk about the topic first was when Justice McDonald served in 2009, at that time he was a sitting Senator on the Judiciary Committee. At that time, he was part of the

crafting of the repeal of the death penalty and his words during the public hearing, he said, it is fair to say I was actively involved in the drafting, debate, consideration and voting on the Bill.

That was back in 2009 as a sitting Senator as Chairman of the Judiciary Committee and certainly to his admission wanting to see the legislation pass. I then questioned whether or not at that time anybody raised an issue regarding the perspective being un-constitution, so part of the legislation was perspective, meaning, those currently sitting on death row would still be facing death, but those who then would be convicted of the same crimes moving forward would not.

So, I asked in 2009 whether or not anybody raised that to him? And his response was, there were comments offered by Chief State's Attorney Kane in 2009, which indicated that in his view if the legislation was passed, in his view he not, that the legislation would be unconstitutional, but that could not in good conscience continue to press the

appeals of the cases that were pending in the court system either as a matter of constitutional law or in good conscience as an officer of the court.

And I thank you for your patience as I was reading the quote and as indicated earlier there was no transcript of the public hearing still available for the public, so I did have to listen to it and I was trying to do word for word, so if you heard some things repeated it was because it was repeated in the testimony.

So, even back in 2009, Justice McDonald admitted to debating and giving consideration for this legislation, the issue was raised by our Chief State's Attorney regarding issues and if anyone who was serving or even not serving that read articles, that issue was raised by many on both sides of the aisle in the House Chamber and in the Senate Chamber.

This was not to be a shock or anything new. Well, in 2009 ultimately the legislation didn't pass and in 2012 at that time Senator McDonald was now

Chief Legal Counsel to the Governor's Office and we had the legislation being proposed again in our legislative process.

To the admission of Justice McDonald, the language was, it mirrored each other, he said he actually had it side by side and it did mirror each other and he was the drafter of the proposed language in 2009.

Serving as Chief Counsel to the Governor, I asked him, did anyone from the Governor's office including the Governor ever ask you to review the legislation? His response was, quote, the Governor was keen on signing it and then to his credit he then continued to highlight the Governor's legal background and education and alluded to the fact that the Governor didn't necessarily always need a response regarding legislation as to whether or not it needed to be reviewed.

Later on, I asked a second time. Did you review the legislation with the Governor? The response was, other than to indicate to him and in a

cursory review, that it did comport with his publicly stated position that he was in favor of the legislation to repeal legislation in perspective basis. No legal analysis or research was done. If possible and then I asked him whether that was possible to pass the legislation and he would have those conversations.

So, as Chief Legal Counsel to the Governor one of the duties and responsibilities is in fact to review legislation. One of the duties and responsibilities is to review it even prior to the Governor signing if it's successful through the Chambers.

Now, Justice McDonald had indicated to us in the Judiciary Committee and he was very, very specific in saying that he reviewed his testimony on the Senate Floor when he served as the Senator in 2009 and he was very specific in saying that other than this general review of the legislation he did not provide an opinion to the Governor or anyone else. And I asked specifically, any legislator, did

you speak to any legislators? Anyone else regarding it? And he was pretty adamant that no, he had not. And then when I asked whether or not it's within his job responsibilities or duties to review the Constitutionality of any proposal that comes before the Governor to sign, he says pretty much no, that's not the case.

I then reference and reminded him of a case in fact regarding campaign finance that specifically he was quoted in saying that there were some concerns regarding the constitutionality of that legislation. He still didn't have a recollection on that and that was during the time that he was actually Counsel to the Governor.

So, it's really difficult for me to understand that how an individual who served as a legislator admitted to debating and putting consideration and supporting legislation that he himself drafted. Assuming that the Governor picked him to be Chief Legal Counsel because he was smart, knowledgeable, experienced would not in any way shape or form have

a conversation with his own Chief Counsel as to whether or not this legislation was constitutional, whether or not this legislation would be challenged in any way.

Before your boss signs something you certify, that's your job, that's your position, and if you don't do it you assign someone to, but you're still part of those conversations and deliberations. We have those conversations and deliberations in committees. We have those deliberations and conversations in Caucuses.

It's difficult, Mr. Speaker, for me to even think that that doesn't take place when you are the Chief Counsel to the Governor. When this piece of legislation is important to the individual that you serve, that this piece of legislation was important enough to this individual to draft and advocate for it. And I reference all of this because later on we have *State versus Santiago*. And in that case Justice McDonald decided not to recuse himself.

It's just as important to recuse yourself from

a case that you may have a perceived bias or actually have biases as much as to serve on a case that you don't. That case passed by a 3 to 4 vote. With Justice McDonald being the critical vote. In the concurrence, he wrote a concurrence and it said, so I'm just going to take a step back, my apologies.

So, one of the other issues regarding this, Justice McDonald doesn't recuse himself, I questioned him whether or not he's had any conversations with other Justice's, his Clerks, which there was some times that he would actually question his -- have his Clerk's do research as to whether or not he should recuse himself.

He decides not to recuse himself and he indicates that he had no conversations with Justice's regarding this. We can only take him at his word.

However, I must say after having conversations with many individuals including Justice's and Chief Justice's these topics come up, I understand that it's individual to the Justice to make an individual

decision, but these conversations come up. Naturally this is an individual who has a long-standing history in this legislative body that presumably even us as Chairs and Ranking Members of any committee live and breathe this stuff on a daily basis.

So, not recusing himself and having all of the information that when he was negotiating in 2009 for this legislation that he now takes to the Governor's Office and sits on this case is enough to make you pause.

Let me give you an example. He recused himself in the educational funding case. Why? Because he said that he met with the parties in negotiating that legislation. He met with the parties in negotiating the legislation. He recused himself. But he's going to sit on this case, a piece of legislation he himself drafted, advocated for, served in the Governor's Office during the passage in 2012 when everyone was screaming from the mountain tops this is going to be unconstitutional.

How could we treat people differently for the same crime? We're going to let this person who does one crime on one day go free while knowing that someone currently is still sitting on death row facing the death penalty.

It doesn't make sense, you don't need a law degree. It's inhumane. And I know that he was parsing his responses as to well the question of unconstitutionality was never really posed. Well, the decision in this case specifically goes to cruel and unusual punishment. The 8th Amendment of the Constitution.

I don't care how you phrase it, the end result is the same. The evaluation is there. Again, only he knows. Only those individuals he spoke to on the bench as to whether or not, if it was ever raised he should recuse himself, they know. The legislators in this building if he did or didn't have conversations with they know. But the perception and our experience here as we serve, we can surmise.

One of the other issues in this case was he was

in a concurring opinion, not alone, also with Justice Norcott, and he raises an issue of race. Biasness in the death penalty. So, I mention this because nowhere, nowhere in the underlying case was race ever a factor. But yet he provides in a concurring opinion information from a report that's been disputed but relies on peer review and makes it an issue in a concurring opinion advising, one could say it's an advisory. Now, how would the attorney's in that case feel that they're reading through an opinion going to all of the facts and circumstances and claims that were raised in the case and all of a sudden there's a completely different issue. They now have no ability to agree with it, disagree with it or anything else because it's the Court's opinion.

And any Justice has the right to issue a concurring opinion. But when you do so with outside evidence and facts and debatable issues and bring it into an opinion it becomes part of the case. That is concerning.

Justice Rogers wrote in her dissent in that case no legitimate legal basis for the majorities decision and I can only conclude that the majority has improperly decided that the death penalty must be struck down because it offends the majority of subjective census of morality. So, essentially, if I could just summarize that.

When the Court properly as many of us had indicated before that it would not be constitutional, it would be cruel and unusual punishment to have two different individuals commit the same crime and one be placed to death and the other one not.

Usually what a court might consider doing is striking the law. So, you strike the law, bad law legislators, you should have known better. Or if you didn't, now you know, because the Connecticut Supreme Court is telling you this is not fair.

And I'm really simplifying this. Okay. So, it gets stricken down and then it would be up to this body, the lawmakers, the policy makers to decide

whether or not to propose a Bill later on to repeal the death penalty because if you struck that down the death penalty would still be in place. The death penalty would still be in place, but no. What did the Court do? The Court became the policy makers.

And whether or not you agree with the death penalty or don't agree with the death penalty, it doesn't really matter here because the Court's duties and responsibilities is to take the facts and base their decision on only the facts. Not create laws. They essentially created public policy. That is concerning, Mr. Speaker.

We've certainly also in reference in the committee have heard about the 1090, the raised Bill 1098 that initially started off as an Act Modifying Corporate Forms and just for those of you who may not be familiar with it, in 2009 that's when Justice McDonald was Chairman of the Judiciary Committee, he proposed that legislation, later on he had indicated it was a constituent of his.

As many of us know constituents come to us with proposals. Some proposals we may think okay, probably will not go anywhere, but we'll give it a public hearing, it's not offensive, it might be reasonable to hear from the people.

This particular piece of legislation when proposed, it was Justice McDonald's constituent, so he knew what that individual was seeking. He knew what that individual was asking for. The Judiciary Committee agreed to raise the concept and the concept again was entitled Modifying Corporate Forms. It seems pretty general enough, seems pretty innocent enough. So, it was raised.

As the drafting took place the raised Bill 1098 was changed to an Act Concerning Laws Relating to Certain Religious Organizations. And then when you dove deeper it was specifically against the Roman Catholic Church. Now, why am I bringing this up? Because many of you are probably saying, well, that was in 2009, you all voted for him to be Justice on the Connecticut Supreme Court. So, we're over that.

You're right. Some of us did. But not all of us did. We've got new members in this Chamber and we also have members actually that voted against him, because of that.

So, I do highlight that proposal. To Justice McDonald's credit then there was no public hearing after a considerable amount of pressure in that regard.

Earlier in one of my false accusations that I wanted to rebut, one of the items is that the Judicial Branch would be damaged as a result of this. We must, we must confirm Justice McDonald's nomination. The Judicial Committee is not a rubberstamp, it never was, it wasn't under Justice McDonald when he was Senator and Chairman of that committee. And it's not now. We here are not rubberstamps.

And I just want to highlight when we talk about certain things being unprecedented, I spoke to Justice McDonald about when he was Chair of the Judiciary Committee, it was unprecedented at that

time that he and also the Co-Chair at that time subpoenaed the sitting Chief Justice to come appear before the Judiciary Committee to respond to some questions. That had never been done before.

So, when you talk about unprecedented because it's a 13-hour questioning, there's a lot of things that happened that's unprecedented. And that's okay, because it's a way of us getting information. But he, himself indicated and I quote, that during that period of time, which essentially had some very negative consequences, he says, it was a profoundly disturbing event for the Judicial Branch. And again, just to clarify, this is while he was Chairman of the Judiciary Committee issuing a subpoena to a sitting Chief Justice. Shocking and very significant moment for the legislature. Another quote from him. Very devastating impact to the Judicial Branch generally, profound impact to Justice Zarella. Also quoting, hoping no one has to live through it again.

When I asked Justice McDonald whether or not

looking back at that if he would have done anything differently, his response was, no. And I asked him, even knowing that a public hearing could have still been had for the nomination of Justice Zarella and the other Justices could have come and spoken and we really didn't need that subpoena, the Chief Justice to come in and speak? No. He stood by his decision. I commend him on that.

But as he indicated that was a very difficult time for the Judicial Branch. So, when people say that what we're doing here today is going to cause irreparable harm to the Judicial Branch, no, it's not. We are doing our duty and responsibilities of this process to evaluate an individual who is seeking to be elevated as Chief Justice.

I want to also just share a few quotes reflecting back on *Santiago*. I don't want to over deliberate on my concern of not recusing himself, but I think it's important to note some of the comments that were made by individuals even back then about the case in 2015.

The Governor's quote. And this is in an article in the Hartford Current, August 14, 2015. The quote goes from the Governor, let's be very clear, he said during a gubernatorial debate in 2010 about a month before he was elected. I want to be very, very, very clear if these two gentlemen and this referencing the two, I don't think I can call them gentlemen, the two criminals. The two, I just heard something else, but. Are sentenced to death, that sentence will be carried out period. That is a quote in this article from our Governor. But we are to believe that there were no conversations between the Governor and his Chief Counsel in this regard.

I also want to highlight again that it was evident the issues that were raised previously. There was a quote in the same article from Senator Fassano. If the Court rejected the death penalty, repeal legislation based on an argument that it violated equal protection by creating a separate class of citizens the remedy should be rightly to strike it down, which would leave us with the death

penalty intact per prior law. This was all raised then.

The language of the legislation was clear. The legislative intent was clear. It is the opinion of many of us that the *Santiago* case, a 4 to 3 decision, should have, may have been a case that Justice McDonald should not have sat on based on his direct work with the legislation, advocacy, his own words, debate and consideration on the legislation.

And well known, well known challenges that was highlighted in that case. And we do know and believe that it is the duties of a Chief Counsel to the Governor to weigh in on the constitutionality of legislation before it's signed and in fact, and I had it during the public hearing and I have it here now where there's a quote from Justice McDonald making a quote specifically to that issue regarding campaign finance and it reads; McDonald said the concerns that the Governor has with respect to legislation go to certain fundamental constitutional principles.

McDonald said that while Malloy feels the Citizens United decision was wrong, quote, wrongheaded unquote, he doesn't want to sign a Bill that will be vulnerable to court challenges. Quote: If the Governor were to sign it, it's a pretty clear within a couple of days after enactment groups across the spectrum of the political thought would quickly file a lawsuit seeking to enjoin the legislation.

I read that again, because it's so poignant that when in the questioning Justice McDonald had indicated that it's only in exceptional circumstances maybe that he's asked for a constitutional opinion. That was campaign finance. That's a very important topic. But just as important if not more important to all of the individuals was the death penalty. An impact to 11 individuals sitting on death row. The impact to the families, the victims, the survivors that were impacted by all of those cases. The communities. It wasn't a shock. It was well noted here in this

Chamber, in the Chamber, in the Senate Chamber.

I'm going to move onto a different case that was highlighted during the public hearing. Didn't get much attention, but in my opinion enough attention of concern.

So, Justice McDonald went onto say the reasons and times that he recuses himself if he has personal relationship with an individual, if he's someone who obviously came before him that works at his prior law firm, that could have been at the time he was actually physically there or even after the fact. So, anyone that served at his prior law firm, he'll recuse himself. Or anyone that he knew even socially as well.

And he said that those are pretty, you know, easy factors and he gave some examples of cases where it wasn't necessarily so clear, but he even gave the individuals the opportunity to decide whether or not, to give an opinion as to whether or not he should recuse himself.

So, actually it was one of the Senator's on the Judiciary Committee questioned him regarding Fairfield Merrittview Limited Partnership versus City of Norwalk. This was a case where Justice McDonald sat on in the Connecticut Supreme Court and he also wrote a dissenting opinion. Now, he was joined also by Justice Robinson in that dissenting opinion, but the issue that I want to highlight and I don't know if Justice Robinson had any relationship with the plaintiffs, but Justice McDonald knew the plaintiffs. Now, at that time he states he didn't know them.

When he came before the Judiciary Committee he still gave the impression he didn't know whether or not he knows those plaintiffs. That was concerning to me. It was concerning to me because some have the opinion that in that dissenting opinion he referenced, took judicial notice of a malpractice suit that was filed involving some of the attorney's, and the attorney that was involved in that case. Judicial notice of a case that's been

filed that wasn't adjudicated, and people even questioned why even bring that up in the dissent. Again, a Justice has the ability and has the right to dissent in an opinion.

But the odd thing here was that there was reference that he had some not so good relationship with one of the individuals directly connected to the plaintiff. That there was and it was an individual and I believe the name was provided in the public hearing, so I'll share it, but a Peter Malkin. There was an open in public discord between then attorney McDonald counsel in Stamford to the Mayor of Stamford and this particular individual on zoning rules and regulations. Something to do with the zoning. But it was open in public.

And when this came before him as he conceded every case that comes before a justice, and I would say, any case that comes before any judge you look at the parties, you decide whether or not you can serve on the case. If you know the individual you can recuse yourself. You don't want to be bias or

give the perception of biasness.

Well, in this particular case, when he was before the Judiciary Committee he said it was a corporation, he wasn't certain who the principles even were. So, I asked did you look it up? How could you determine whether or not there's a conflict of interest unless you look into the individuals, even if it's an entity. The response was no. It's not the practice of the Justice's and Justice McDonald even went on further to offer well maybe this is a proposal, a change I will advocate or actually I think he had indicated that he'll make the recommendation that this is something that we should do. Not just have the entities name, but maybe the principles, I think he went even as far as to say, you know, if they have more than five percent interest that they should then be named.

I was a little taken back, it probably wouldn't even have had been a case that was important, but I was a little taken back that how could you properly determine whether or not you have a conflict if

you're not going to look into who manages or who are the owners or the principles of an LLC. We as practicing attorneys when people come see us, we always look into whether or not there's conflicts in that.

And it's as simple as and I had indicated to Justice McDonald, it's simple as to going on the Secretary of State's website sometimes. If they were duly formed even in Connecticut we've got the Connecticut Secretary of State's website. And he did indicate yes, that's correct, but not everyone would be named that and I conceded to that, sometimes it's just one member or a managing member or even an agent of service. But at least it's something. Because even if a name came up there that you might have recognized, you'd look further into it if it was an individual you recognized.

Well, in fact, I hadn't done it before because like I said it may have not even been an important issue to me except after the public hearing, because I didn't do it during the public hearing, I went to

the Connecticut Secretary of State's website and I simply entered Fairfield Merrittview and if anyone has gone on the Secretary of State's website you go to Connecticut Concord, you search by name and you enter in the name, I did. And what comes up? The business address for Fairfield Merrittview Limited Partnership says care of Malkin Holdings, LLC and it goes on in addition to has a mailing address care of Malkin Holdings and it goes on. Malkin was the name that came up during the questioning that he himself said he is familiar and aware of the individual.

Certainly, it was through a Senator's questioning and highlighting a republic discord. Now, one of the cases that Justice McDonald indicated that he actually recused himself was because he had negative feelings come back in a case having to do with an individual attorney. And he recused himself. So, that's an example of a recusal. This one he didn't even have the information to properly determine whether or not he should recuse himself. So, we don't know, the

individuals don't know whether or not that public discord, whether or not there was only one or multiple, we don't know, raise the level of recusal. But a simple search on the Connecticut State's website when A) Justice McDonald himself was highlighting for the Committee all of the technology they have at their fingers. The Clerk's ability to look up things. Something so simple.

So, then it also occurred to me well maybe his logic in the Judiciary Committee that the Secretary of State's Website doesn't have all of the principles, how about a simple Google search. So, then I did a simple Google search. And a simple Google search of simply principles of Fairfield Merrittview Limited Partnership brought to my attention at all relevant times Malkin Holdings, LLC was the supervisor of and there's a list of several LLCs' including Fairfield Merrittview Limited Partnership.

So, I quote Justice McDonald had indicated, I know some of the members of the Malkin Family. I

think that could have been a simple enough search, I don't know how any Justice or any judge or any attorney who decides whether or not to take a client could properly determine whether or not there's a conflict without looking up an entity. Whether or not it was the practice of the Court.

We also during the public hearing had heard an indicated or were informed that there was only one motion for disqualification that was filed during the time that Justice McDonald was serving on the bench.

And I'm sure many of you have already read the articles regarding that it did involve a sitting Senator who there were three affidavits. One from the sitting Senator regarding the treatment that she experienced and she believed in a sworn affidavit that related back to a case that Justice McDonald was representing a client where her husband was on that case.

The attorney, her husband, also signed a sworn affidavit indicating the mistreatment that he

perceived from Justice McDonald. The attorney who then also led the case highlighted his concerns regarding how the case at that time when Justice McDonald was serving as the attorney, how things were going, and quote, the affidavit from attorney Andrew Skolnick reads, during the litigation and this is again when Justice McDonald was an attorney not a Justice representing a client. During the litigation Justice McDonald appeared both professionally and personally offended by the efforts we were asserting on behalf of our client regarding Mr. Gray's medical condition. He indicated that he thought our actions were outrageous and it was very painful that what we considered to be zealous advocacy on behalf of our client he viewed as a personal affront.

So, these affidavits are not easy for any individual to make the decision to write them let alone make them public. You have two attorneys writing affidavits indicating that they thought that Justice McDonald would not be able to be fair and

impartial as a Justice of a later case that they had before him, that he should recuse himself. And then you had an affidavit from a sitting Senator, a woman who described how she felt and she was treated by Justice McDonald during the period of time that he served as Counsel to the Governor. And still Justice McDonald decided I'm not going to recuse myself on this case.

I asked Justice McDonald, do you believe those affidavits were submitted in good faith? Do you believe that Senator truly felt that way? And he said he had no reason to believe that it wasn't filed in good faith.

Certainly, after a 12-hour public hearing there's a lot I could highlight. I don't want to do that to everyone that's here today. But these are important issues that I raise. That I believe in a very short period of time highlights some of the concerns that we have regarding Justice McDonald's nomination. I myself, voted in his favor to serve as a Justice. And ironically, I'm going to quote

from my words on the floor of the House back then.

I stated we here at the Capitol we make laws. Judges do not make laws from the Bench. Those are the Peoples cases and they must decide based on the information that's provided to them. That belief that I had and knowing the duties and responsibilities of an impartial fair jurist in decision making for recusing and writing opinions, I believed at that time that Justice McDonald could be fair and impartial and remove himself if anything was going to come before him.

The *State versus Santiago* came after the fact. His decision to recuse himself or not recuse himself came after the fact. I have concerns from those and several other cases that will be highlighted by some other individuals. I also want to note that also unprecedented in the *Santiago* case, there was a motion filed to strike the concurring opinion. Never been done before. Never been done before. That motion came from the Office of the Chief State's Attorney. I want to read what their

conclusion for filing that motion to strike.

That motion for strike was never then decided upon, because rightfully so as Justice McDonald said it was an improperly filed motion, because it's never been done before. But what do you do, what recourse do you do, do you have when an issue has been issued, a decision has been issued and there's a concurring opinion. This is the fear, this is the problem with taking evidence from outside of a case into a case. But this is very important it was unprecedented, this office, the Chief State's Attorney Office thought it was important enough to say the concurring opinion should be stricken because 1) No Justice of this Court can issue an advisory opinion. 2) It misstates the findings of the *habeas* core in the *in re* racial disparity. 3) It relies on irrelevant unreliable data and 4) Its very existence undermines the integrity of the entire Court's Appellate review process. Finally, it perpetuates a pernicious accusation of racial bias that is unsupported by the only objective

relevant to findings that exist.

State versus Santiago was a very significant case in so many ways. From the unprecedented motion to strike, the concurring opinion bringing in information and data that has been challenged that has nothing to do with the underlying case, but then most importantly Justice McDonald's direct contact all the way through the repeal of the death penalty proposals starting back in 2009.

My concern is that Justice McDonald as much as I thought and believed would be able to be impartial and recused himself when appropriate and he has done so in over 80 other cases, it's concerning to me that it wasn't done in this case. It was concerning to me that even after he indicated himself that those affidavits were filed in good faith, didn't recuse himself then and some of the other cases also concern me.

I'm not saying that it concerns me to the level that he shouldn't continue to serve as a Justice, but what I am saying its concerning enough to me

that it gives me great pause in supporting the nomination as Chief Justice because that position as it's been said over and over again goes far beyond the work of a Justice. You are the head individual in those meetings making those critical decisions whether regarding the budget, hiring and firing. Every aspect of the Judicial Branch the Chief Justice is that leader, that person who is going to be directly also working with the Executive Branch and the Legislative Branch.

So, again, I just want to thank all of my colleagues for putting up with this lengthy, not necessarily a debate, but commentary in over a 12 to 13-hour public hearing we had in the Judiciary Committee and I wish that my analysis was different. I wish I could stand here today as I did back then and support the nomination of Justice McDonald as Chief Justice, but unfortunately at this time I'm not able to. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Rebimbas. Would you

remark further? Representative O'Neill of the 69th District. The floor is yours, sir.

REP. O'NEILL (69TH):

Thank you, Mr. Speaker. I will try not to be too repetitive. It's going to be difficult because the Ranking Member has done such a comprehensive and masterful presentation of the concerns and issues that those of us on the Judiciary Committee who voted no entertained and things that we were concerned about. But I will just repeat briefly the Chief Justice is a lot more than the person who calls the Court to order when they sit down to make decisions or to hear oral argument.

The Chief Justice appoints the Chief Court Administrator. And the Chief Court Administrator really acts as the manager and the budget director of the Judicial Branch. Together with the Chief Justice the Chief Court Administrator prepares the budget for the Branch. In other words, no other Judge votes on whether the budget is going to go up or down or how the money is going to be spent.

The nominee before us, Associate Justice McDonald acknowledged as much by indicating that he really had no actual knowledge of how the budget was prepared and he received only the briefest of briefing before the budget was sent over to the Legislature by the Judicial Branch.

In March of 2013 I voted as a member of the Judiciary Committee and then later as a member of this body to confirm Andrew McDonald as an Associate Justice of the Connecticut Supreme Court. I did so after questioning him on a number of issues about which I was concerned, which included his professional, political and personal relationship to Governor Malloy. Here are some of the pertinent parts of the transcript of that March 2013 hearing.

We had had an earlier Judge have a hearing and he had responded to issues relating recusal that is when a Judge disqualifies himself from sitting on a case. O'Neill; Judge Grundel's answer was a Judge should disqualify himself or herself in any case where the judge has strong personal relation with

one of the parties or attorneys or where the judge's personal views will interfere with the judge's ability to decide the case fairly. Is that approximately the view that you take based on what you remember that you wrote in your questionnaire? Answer from Andrew McDonald; it is.

He agreed with what Judge Grundel said. It also, he went onto say, requires that you recuse yourself if it can reasonably be inferred that you have a bias. Okay, I said. You describe the role of legal counsel to the Governor, quote; in my current position I serve as Chief Legal Advisor to the Governor, the Lieutenant Governor and the respective senior staff. I provide legal advice, counsel and analysis to the Governor on all aspects of Executive Branch functions and operations.

I oversee all in-house legal functions including supervising 85 attorneys in various departments of the State. I review and analyze all public acts and make recommendations concerning soundness and whether the legislation should be

vetoed.

I negotiate legislation, issues and policy matters on behalf of the Governor and represent him in a variety of forums. Representative O'Neill; Okay, with respect to the disqualification issue for example, if someone brings suit and names the Governor as a defendant is that without having to really look at it any further going to be something that if it shows up in the Supreme Court that's something you feel you should likely disqualify yourself from? Answer; it certainly would depend on and has been said before every case has to be analyzed on the facts of the case.

If the Governor is nominally named and just because there has to be a name on the pleadings, I would analyze that. If there's anything that relates to the Governor personally he's not only a client, but a close personal friend of mine. And I would absolutely recuse myself. Representative O'Neill; so, your relationship with Governor Malloy has been personal enough so that he would qualify as

the kind of personal relationship that would disqualify if named personally in matters?

Andrew McDonald; yes. Representative O'Neill; okay. Because it would seem to me that for the circumstances of having been such a close advisor to the Governor and involved in all these things it certainly is a reasonable default position to take certainly as long as Governor Malloy is in office or any of these matters that you personally worked on are coming up that a disqualification might be the safest course of action in a lot of these cases just to avoid the sense that somehow the Governor has one vote that he can count on because you worked on it or he talked about it or something like that.

Answer from Andrew McDonald; I absolutely agree.

I voted to confirm Andrew McDonald as an Associate Justice of the Supreme Court even though I had serious concerns about the fact that he had no prior judicial record. This was only the third time in the history of the State of Connecticut that we know of where someone is appointed and confirmed to

be on the Supreme Court without previously having served as a judge of the Superior Court or some other court.

We had no record of his conduct as a judge. We had to rely entirely on his representations at the public hearing regarding such issues as recusal.

On February 26th I voted against confirmation of Andrew McDonald as Chief Justice of the Connecticut Supreme Court. Why? Because I believe that Associate Justice McDonald has failed to live up to his commitment to recuse himself in cases involving Governor Malloy where recusal is justified to avoid a reasonable inference of bias. He acknowledged that he has a close, that he is a close personal friend of Governor Malloy and because of that personal friendship he would err on the side of caution to avoid the appearance that Governor Malloy had as I phrased it one vote he could count on in the Supreme Court.

The crucial cases are the death penalty cases of *Santiago* and *Peeler* in which the question of the

effect of the perspective repeal of the death penalty was decided.

On July 10th, 2014 a little over a year after being confirmed as a Justice of the Supreme Court, Associate Justice McDonald participated in the *Santiago* case as you've heard. On August 25th, 2015 Justice McDonald cast the deciding vote that overturned the death penalty on constitutional grounds.

He reaffirmed that decision in the *Peeler* case on January 7th, 2016. In his public hearing this year he claimed he had no involvement in negotiating, reading the Bill or advising the Governor about signing or vetoing Public Act 12-5, which was the law that was the basis of overturning the death penalty in *Santiago*.

Now, back in 2013, in answers to some of the questions that I put to him he stated, I am very involved in matters that are likely to develop into significant public policy matters for the Administration. This year he claimed that he seldom

if ever advised the Governor about the constitutionality of the laws the legislature passed indicating that constitutionality of laws and legislation is not something he concerned himself either as lawyer for the Governor or as a legislator. That was up to the courts to decide.

When Representative Rebimbas, who just spoke, the Ranking Member of the Judiciary Committee asked him about those newspaper articles describing where he is quoted describing constitutional problems and she just quoted them, Associate Justice McDonald in our hearing just a few weeks ago sounding sort of like a character out of Mission Impossible denied all knowledge of those quotes. And insisted that the legislation that the quotes related to did not pass the assembly while he was lawyer for the Governor.

That that law only passed after he left the Governor's office. When I specifically asked about recusal in *Santiago*, Associate Justice McDonald claimed he was required by the code of judicial

conduct to sit on the case and not recuse himself. Although, he acknowledged that there is absolutely no Connecticut precedent saying that that was so.

Now his defenders on the Judiciary Committee pointed out the cases such as one involving former Chief Justice of the United States Supreme Court Rehnquist and former U.S. Supreme Court Justice Scalia in their decisions not to recuse themselves in some extremely controversial cases.

Neither the Rehnquist case nor the Scalia case should be considered as applicable or supportive of Justice McDonald's decision. In Rehnquist, the facts of the situation were as follows; Rehnquist while working as an attorney for the U.S. Justice Department testified in front of the Senate Committee chaired by Senator Sam Irvin that was investigating the activities of the Lyndon Johnson Administration whereby they were spying on Americans protesting the Vietnam War, gathering data, taking pictures and creating computerized dossiers.

Justice Rehnquist in his testimony said he

didn't think what the U.S. Army did was unconstitutional or even illegal. And he referenced a case *Laird v. Tatum* when he was testifying. Not long after that testimony he was appointed to be a Justice of the United States Supreme Court and the *Laird v. Tatum* case was presented to the United States Supreme Court for his consideration. He was asked to recuse himself on the grounds that he had already prejudged the key issue in the case.

Justice Rehnquist responded by denying the motion and filing an 8-page long memorandum in support of his own decision. In that memorandum, Mr. Justice Rehnquist stated quote; based on the foregoing analysis I conclude that the applicable statute does not warrant my disqualification in this case. Having so said, I would certainly concede that fair-minded judges might disagree about this matter. If all doubts were resolved in favor of disqualification it may be that I should disqualify myself simply because I do regard the question as a fairly debatable one even though upon analysis I

would resolve in favor of sitting.

Now, the interesting thing about this memorandum is that there was an earlier draft and in Justice Rehnquist's papers that were released after his death in 2008, a copy of that earlier draft was released. And in that earlier draft is a line that didn't find its way into the final memorandum that said this is an extremely close case.

The other thing worth noting about the Rehnquist case that was cited during the hearing on Justice McDonald is that shortly after Rehnquist issued his memorandum and decided to sit on the case, the Congress of the United States changed the Federal Statute governing judicial disqualifications and Justice Rehnquist in his Chief Justice hearing in front of the United States Senate in 1986 acknowledged that those changes had they been in the law at the time of the *Laird* case would have required him to disqualify himself.

So, I don't see the Rehnquist case as really supporting in a situation such as this, you've just

got to sit on these cases. Certainly not if you've already acknowledged that you shouldn't sit on any of the cases where there's any doubt, where there's any reasonable inference that you might be biased.

The second case that was brought up was a case involving Justice Scalia in which he had gone on a hunting trip with then Vice President Cheney and then a case involving Vice President Cheney was brought to the Supreme Court and he was asked to disqualify himself because of the hunting trip, because he had had a long association dating back to when they both worked in the Ford Presidency White House.

And Justice Scalia responded as follows; let me respond at the outset to the Sierra Club suggestion that I should resolve any doubts in favor of recusal. That might be sound advice if I were sitting on a Court of Appeals, there my place would be taken by another judge and the case would be able to proceed normally. On the Supreme Court however, there's the U.S. Supreme Court, the consequence is

different. If the Court proceeds with eight Justices raising the possibility that by reason of a tie vote it will be unable to resolve significant legal issues.

Now, the situation here in Connecticut, and I went over this with Mr. Justice McDonald, is very similar on our Supreme Court to a Federal Appeals Court. If one of the Justices of our Supreme Court disqualifies himself, his place can be taken by someone brought up from the Appellate Court, a senior Appellate Court Judge can sit. And in fact, that is exactly what happened when Justice McDonald recused himself in the *CCJEF versus Rell* case, the one involving the school funding that was just decided very recently. Another judge was brought in to sit in place of Justice McDonald.

So, the compelling reason in the Scalia case that was cited as the justification for Justice McDonald's sitting on *Santiago* and *Peeler* doesn't exist. Under Connecticut law we can bring in a replacement justice. It's not the same kind of

problem as exists at the Federal level and Scalia's entire decision to remain on the case involving Vice President Cheney was based on the idea that he was basically an indispensable justice to hear that case. He could not be replaced.

Now, there is another case involving recusal that is worth noting. And that is the case of *Caperton versus A.T. Massey Coal Company*. In that Case, a Justice of the West Virginia Supreme Court was elected, he was elected with \$3 million dollars' worth of campaign contributions donated to him by one of the owners of the A.T. Massey Coal Company. He then sat on an appeal that was pending during the election campaign.

He was asked to disqualify himself. He said no. The case went up to the United States Supreme Court in 2008. And in that case the United States Supreme Court ruled that the question is whether under a realistic appraisal of psychological tendencies and human weaknesses the interest of a Judge poses such a risk of actual bias or

prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented.

This has been an evolving standard, we go back to the *Toomey* case in the 1920's when Judges salaries were paid out of the fines that were assessed against the people they convicted. And in 1927 the United States Supreme Court ruled that's unconstitutional. You can't have the Judge getting paid out of the fines and think you're going to get fair judgements in criminal cases.

And over the years there's been a gradual evolution of the constitutional standard in this Country about where disqualification is required. And bear in mind, the constitutional standard for disqualification of judges is the rock-bottom bare minimum. The Court's over and over again refer to the fact that most States have laws or rules that require even more stringency than what the due process clause of the Constitution requires.

There's a recent law review article that reviewed the *Caperton* case and the evolution of this standard. And in that article, it is stated the Supreme Court has gradually expanded the common law rule over the last century to require recusal based on due process in new situations. So, this is where we're going as a State. When in doubt a judge should recuse himself. Interestingly enough, and somewhat ironically like so many things about this situation that law review article was published by Cornell University.

Now, Justice McDonald indicated that there had never been any cases where in his kind of situation because of a personal relationship a judge has been found to need to recuse themselves. And I would point out that in 1977 in the State of Alabama, George Wallace was going through a divorce and the judge whom he had appointed to the judgeship was hearing the case. And that judge's father was one of Governor Wallace's strong supporters and friends. And not surprisingly Mrs. Wallace requested a

recusal. The judge refused.

But in Alabama because this was a trial court and because there was a higher court that could hear the appeal, that judge was required to recuse himself and step away from the case.

So, personal relationships with the appointing authority can be and have been the basis of recusal. This is not some novel, we just made it up this year standard. This has been going on in this Country, we've been gradually moving in this direction, even the United States Supreme Court as a matter of constitutional law of due process has held that you've got to make sure that there is not this potential for bias in order to ensure the credibility and the integrity of the judicial system.

Simply put, we cannot trust Associate Justice McDonald to make the right decisions when it comes to recusal in cases involving policies formulated during Governor Malloy's Administration. Now it is very unlikely that the United States Supreme Court

will ever review a disqualification case involving Justice McDonald, those cases that I cited to you happen such as *Caperton* or *Toomey* about once every 30 or so years. The Supreme Court hears very few cases out of the thousands and thousands of writs of certiorari that are filed, they hear a few hundred.

So, it is really up to us to make the decision here today as to whether or not we think the conduct of Connecticut Judges should be governed more stringently than it has been. There is no one to whom you can appeal if you're a litigant and you feel that Justice McDonald should have recused himself. Other than the U.S. Supreme Court, there's no court of review, there's no one else to ask who could sit and say Justice McDonald should be recused. Not the Governor, not this legislature. Once Justice McDonald is confirmed as Chief Justice he will be the ultimate authority within the Judicial Branch on the Supreme Court and he alone will decide whether or not he recuses himself from these kinds of cases in the future.

It is our duty to hold Justice McDonald accountable. There is no one else. There is no other time, I believe I am quoting Hillel, if not us who? If not now, when? Please vote no on this nomination.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative O'Neill. Will you remark further? Representative Floren of the 149th District, you have the floor, Madam.

REP. FLOREN (149TH):

Thank you, Mr. Speaker. As I did in 2013, I rise to support the nomination of Andrew J. McDonald. This time to be the Chief Justice of the Connecticut Supreme Court. It has been said that you can observe a lot by watching. And I have watched Andrew for the eight years that we served together as members of the Stamford Delegation to the General Assembly.

And I have observed that he has an outstanding educational background, keen intellect and a razor-

sharp wit. For the past five years I have watched Andrew as a Supreme Court Judge and I have observed his prepared, poised and politely patient demeanor on the bench.

Throughout these many, many years I have always been impressed with how Andrew conducts himself. He does his research. He gathers the facts. He analyzes data and he listens. He really, really listens before making any decisions. His respect for the rule of law and his respect for the opinions of others are in his DNA.

As any of you who ever served with his mother, Ann, who was a six term State Representative and the long time Chair of the Finance Committee you will realize that Andrew's DNA is very much firmly in place.

Andrew's heritage of public service, his strong work ethic, his deliberative temperament are hallmarks of an exemplary justice. In my opinion, Andrew J. McDonald would be a wonderful Chief Justice. Thank you.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Floren. From the 108th District, Representative Smith, you have the floor, sir.

REP. SMITH (108TH):

Thank you, Mr. Speaker. And good afternoon, sir.

SPEAKER ARESIMOWICZ (30TH):

Good afternoon to you sir, please proceed.

REP. SMITH (108TH):

Thank you. You know, I rise today, Mr. Speaker with some reservations actually. I've been here eight years, served on the Judiciary Committee all eight years. I must say during those eight years I probably have voted against a judge less than a handful of times. Typically, the judges are well qualified, they have the experience and I support them.

In fact, and when Justice McDonald came before

the Judiciary Committee previously I did support him and I voted in favor of his nomination to the Supreme Court.

I do recall though, during the commission or the committee meeting asking Justice McDonald before he was on the Court various questions about the Constitution, how he feels about the Constitution, the rule of law, precedence, things of that nature. And he answered my questions to my satisfaction, which is why I supported him.

One of the things I find most important to be a judge is to actually follow precedent and follow the rule of law. Why is that important and it must be difficult I'm assuming for many of those who are here today in the Chamber who are not lawyers, who have not had the opportunity to appear before judges, argue cases, try cases, have those cases appealed to a higher court.

The reason why it's important ladies and gentlemen, is if you cannot rely on cases that have already been decided and are similar to your case,

if we cannot rely on a precedent, if we cannot rely on the facts of the case being presented to the judge and only those facts being decided upon then what do we have? We have a breakdown. A breakdown of the rule of law. And in the past several years that Justice McDonald has been on the Bench, we now have an opportunity to look at some of the cases that he's been involved with, some of the cases that he's penned and authored and he has a record.

And the record is clear, Mr. Speaker, that unfortunately in my opinion, Justice McDonald has not followed the rule of law. And he has not followed our precedent that we have set in the State of Connecticut.

Now, during the -- it's been well stated 13- hours of testimony from Justice McDonald, I had the opportunity to ask and answer some questions back and forth with Justice McDonald on this very issue. And I really focused on two cases then and I'll briefly mention them today about the concerns I had of him following the Constitution and him making his

own rules as he goes along.

The first case was *State of Connecticut versus Lapointe*. This is an interesting case just on the facts alone, but the Defendant was charged with raping, beating and killing his wife's grandmother and he was convicted of that and he burned the house down to destroy the evidence. That conviction was appealed on a number of grounds and one of the grounds was ineffective assistance of counsel because the counsel did not raise the fact that there was some evidence out there about when the time of the fire started, which would play into his alibi defense. So, if the fire started at a certain point the Defendant could prove where he was and that did not come out at the trial court level.

So, based on that the Appellate Court sent it back to the habeas court, which is the lower court, the trial court and there was some evidence presented on that by two experts, one for the State and one for the Defendant.

The habeas court found the credibility of the

State's expert witness more favorable. And based on that upheld the conviction. That again, was appealed up to the Supreme Court. In a break in precedence of over 200 years where deference is given to the trial court especially on the issue of credibility, the Supreme Court decided that they are in an equal position as to trial court, despite never having sat in the courtroom and heard the credibility of the testimony of the witness, but they stood in the role of the trier of fact and absent clear evidence and 200 years of precedence they said you know what? We can make the decision just as well and we think the credibility of the Defendant's expert witness is more favorable than the State's. And they overturned the decision.

I was baffled by that decision and I asked Justice McDonald about it. And the thing that really baffled me was I asked Justice McDonald, I said, I noticed in the decision there was no Connecticut Court Case that supported your position. Why is that? And his answer was, well, there was

really no case that was squarely on point, on all fours, they say all four corners of the case, so really was nothing clearly on point.

We're talking about 200 years of jurisprudence being dismissed because they could not find a case on all four squares. And they went to a court in Indiana to support the position of overturning this jurisprudence.

Justice Zarella in his dissent wrote in particular, I express my strong objection to the majority's creation and application of a new exception to our well-established standard of review. An exception that allows this Court to engage in a noble review of live expert testimony presented in a habeas proceeding.

Now again, I apologize to the non-member lawyers of this Chamber. But when we established the Constitution of this State way back when, I think our Ranking Member said it was 1818 when they created the various courts.

And they decided, our founders decided at that time that the lower courts would be the trier of fact. What does that mean? That means that the lower level court would have the ability to hear the witnesses testify and make a decision based on that testimony whether that witness was credible or not credible. And they would make a finding of fact based on that credibility. And the Appellate Court and the Supreme Court absent clear error had an obligation to uphold the trial courts finding. Well that did not happen here.

What happened is, is that the Supreme Court stepped into the shoes of the trier of fact. Never been done before. I want to repeat that. Never had been done before. And I asked Justice McDonald, I pointed out a few examples where it had been tried to be done before, but it was rejected by the Supreme Court on a number of occasions and I reminded him of that.

Despite that they changed the law and the way we now handle reviews in Connecticut and that's

important because litigants now have no way of knowing what the precedent is, what the standard of review is because each time you go up there it could be something different. So, despite 200 years of case law that says you cannot do it, despite Article 5 of our Constitution, which separates the Court, you cannot do it, Justice McDonald went ahead and did it.

What's fascinating even further ladies and gentlemen about this case is neither the defense nor the State raised the issue on appeal. So, think about that. It wasn't briefed as an issue, it wasn't raised an issue, it wasn't brought to the Supreme Court Justice's attention and said listen, I really think there's an issue here, this should be decided. No, that did not happen in this case. The Justices did it on their own and Justice McDonald in particular on his own to raise this as an issue.

In fairness, over the years the Court has created an exception that they can raise things even if it's not raised by the parties. It's a nice

Latin term, sua sponte is what it's called, they can do it. But they have to give the litigants an opportunity to brief and argue the issue. That was not done here, ladies and gentlemen.

And there's also an interesting point that was ignored, the standard in Connecticut with litigants is if you fail to raise an issue its deemed waived. So, it's accumbent upon the lawyers to raise the issue and if you fail to raise it, you say goodbye to it. So, not only did they not raise it, the court raised it for them, but they did not have a chance to brief it.

I brought all this out in the Judiciary Committee as one of the reasons why I had concerns about some of the decisions that Justice McDonald has rendered on the Court. There was another decision, State of Connecticut versus -- well before I get to that, I just, I think it's important to point out what the dissent said in the *Lapointe* case. And I think it's important for a couple of reasons. It's easy for me as a member of the House

and a member of the Committee to have my own opinions, to tell you what I think, why I think it's important, I mean that's all a part of it. We all do that. But when other members of the Court go onto say how they feel about it, I think we need to give it a little bit more deference in all due respect.

So, Justice Espinoza in her dissent of this case stated, I write separately to emphasize what I view to be the central and troubling flaw in the majority opinion. It constitutes unfettered judicial activism. It reflects a complete misunderstanding of the proper role that this Court should play within the rule of law. In a gross parody of judicial economy, the majority functions as fact finder, counsel and review in court. Think about that.

When you have a Court of last resort acting as the fact finder, as a counsel and a reviewer, the rule of law is broken down, ladies and gentlemen.

A similar example of that is the *State of*

Connecticut versus Edmonds. You won't have time to do it today probably, but I urge you at some point to take a look at this decision. Again, Justice Espinoza goes on and this is a case of which Justice McDonald authored the opinion. And again, for you non-lawyers I'm not going to get into the nitty-gritty details of the motion to suppress and improper seizure and all the things that were argued in that case.

What I would love for you to take a look at while this debate continues is the dissent written by Justice Espinoza who found 15, not one, not two, not three, but 15 different instances where Justice McDonald went outside the record to support his opinion. What does that mean, outside the record? Well, when you have a trial at the lower court level there are certain facts that are established and proven sent up to the Appellate Court. That's the record. You cannot go outside the record to create new facts, that's for the trial court.

Justice Espinoza in her decision cites 15

different examples of Justice McDonald going outside the record to support his decision. If that's not troubling to you, I don't know what is. It's certainly troubling to me. It's troubling to me as a lawyer, it's troubling to me as a member of the Judiciary Committee, it's troubling to me as a member of this House. We as a legislature have set up the proper way to do things with our Judicial System.

When folks take it upon themselves to change that because he or she may not have liked the way the decision came out, well I'm sorry, that's not how it works. We all have to play by the rules, ladies and gentlemen. And in this instance Justice McDonald has not. And unfortunately, these are just two examples and you heard some from our Ranking Member and you heard some from Representative O'Neill and I suspect you'll hear some further as we go on.

Again, when I first got up here I mentioned that I do so with reluctance, I do believe there's a

certain amount of deference that needs to be given to a Governor and while he or she is sitting to appoint people to the Bench, and if they're qualified they should remain.

The Chairman of the Judiciary Committee aptly pointed out we're not here to state whether Justice McDonald is or should be on the Court, that's a different day. But to allow an individual who has clearly flaunted the rules, created his own rules for his own purposes to lead our Judicial Branch in my mind is a wrong statement to our State.

So, for those reasons I regret to say I cannot support this nomination. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Smith. Would you remark further? Representative Petit of the 22nd District, you have the floor, sir.

REP. PETIT (22ND):

Thank you, Mr. Speaker. I rise in opposition

to the nomination of Justice Andrew McDonald to be the Chief Justice of the Connecticut Supreme Court.

I'm opposed for a number of reasons, a number of which you have heard announced by fellow representatives. Justice McDonald has never served as a Superior Court nor Appellate Court Judge and has had a very short career to date in the Supreme Court.

As far as I know he's never represented a criminal defendant and I do not believe he has experience nor temperament to be the CEO of the Judicial Branch. I believe all the other current sitting Justices have served both on the Superior and Appellate Courts.

I am opposed because our Supreme Court Justice's and especially the Chief Justice should make decisions based on the rule of law. As I read the opinion admittedly, I think I may be the first non-lawyer standing to speak on the death penalty, it did not strike me as a non-lawyer as a good structural nor particularly legal based analysis

that supported the abolition of the death penalty.

The opinions seem to me to be a social argument with attempts to, but just a personal opinion and position and not legal positions. I would then quote, I think people far more experienced than I, Chief Justice Chase Rogers was among the dissenters and wrote, quote, that every step of the majorities opinion was quote, fundamentally flawed. The majorities determination of the death penalty is unconstitutional under our State's Constitution, is based on a house of cards falling under the slightest breath of scrutiny. And that's from Justice Rogers dissenting opinion.

Justice Espinoza noted in other dissenting opinion, quote, because the majority opinion has grounded this decision on the conclusion albeit incorrect that the death penalty no longer comports with evolving standards of decency.

The legislature has the power to reenact the death penalty, which you've heard from several other speakers here today. Quote, as the majority

recognizes there is nothing that requires that the standards of decency evolve only in one direction end quote.

At the time this decision came down, I believe the majority of the people of Connecticut favored the death penalty, my recollection is that at the time some 60 to 70 percent of people favored it depending upon how the question was formulated and asked.

The more specific the conditions that were formulated, the more people that were in favor of it and not against.

Given what I feel is this bias, I am concerned about confirming a Justice who has appeared to want to push a personal agenda and not directly interpret our laws. In addition, I'm concerned that given his age and these issues that he would be a Chief Justice for nearly 20 years.

Others here have previously illustrated issues involving religion, especially the Catholic Church

as you heard from our Ranking Member on Judiciary. And another opinion, an upset of 200 plus years of jurisprudence as you heard from the Representative from the 108th District.

I feel that the Supreme Court should interpret our laws and not attempt to impose their personal opinions at will upon the legislature and the people of our State.

Finally, in addition, I believe this nominee had previously participated in a politicization of the nomination of Justice Zarella in the past and did not focus on the merits of that prior nomination. Perhaps more troubling, this nomination here I think has been totally politicized by many within and outside this body who have used the media, robocalls and other methods that have avoided honest discussion of the real issues surrounding this nomination.

I cannot, Mr. Speaker, in good conscience support this nomination and thus for those reasons I will be voting no. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Petit. Will you remark further? From the 86th District, Representative Candelora, you have the floor, sir.

REP. CANDELORA (86TH):

Thank you, Mr. Speaker. Mr. Speaker, I too rise in opposition of this nomination and I certainly like everybody else do not take the process lightly. Five years ago, I was one of the 20 members in the House Chamber that voted against the initial appointment of Justice McDonald to the Supreme Court.

And after sitting through the Judiciary Process and listening to the number of hours of testimony and questions, my concerns still have not been elated and the original reasons why I voted against him still remain.

When Justice McDonald had served as Chairman of the Judiciary Committee, we heard discussion about Senate Bill 1098 that came before us in 2009. I was

serving for two years in this Chamber and it probably was one of the biggest turning points in my life as a legislator and just on a personal level because when that Bill, that particular Bill was raised I remember it was in March when the Bill came out as drafted and everybody was shocked that the title of the Bill and its substance came out as being an Act Modifying Corporate Laws relating to certain Religious Corporations.

And what that Bill effectively was seeking to do was to statutorily reorganize the Catholic Church in Connecticut, to make it so that the church could not exist in this State. And on a personal level having been a practicing Catholic all my life, it really struck me to the core that the legislature was embarking on a potential path to eliminate my ability to practice religion in the State of Connecticut.

And I remember when that legislation came out many people, I mean we all ran to our Ranking Member at the time, I think it was Arthur O'Neill and said

how did this happen? How did we all vote for a concept that would do something like this? And after our attorneys did some research and everybody shrugged their shoulders the concept that was raised was entitled Modifying Corporate Forms.

And somehow, and we all know how this building operates, the Chairs and Ranking Members sit down in a room and they go over the concepts to be raised. Somehow, something as significant as this was never discussed in meetings prior to this draft language hitting the floor of the Chamber and of that committee room. And I remember people sort of ran around and tried to stop the process and figure out how we prevent that Bill from moving forward. And while all this was going on and the Church was getting all wrangled up, the chairman of those committees set down a public hearing anyway only to increase the anxiety of those people who are practicing Catholics throughout the State of Connecticut.

And I remember going to church and hearing the

announcements and the busses were beginning to be organized and protests were being organized and the night before the public hearing the decision was finally made to box the Bill and not go forward on the hearing. Just the night before. And all these churches had events scheduled to come to the Capitol to speak their minds.

And so, it was bad enough that we raised a concept that was so offensive and it was under Justice McDonald's leadership, but then when the voices wanted to come to be heard, the Chairman cancels the public hearing and prevents that opportunity. And you know what? people came up anyway, 5000 people it was estimated came up to speak against that legislation. And I think for many of us, me personally, it was an embarrassing moment as a legislator that that process had even occurred.

Moving forward to the nomination process and I could speak to the one where he just testified, but it was similar when he went originally in 2013 for

his appointment. Justice McDonald had an opportunity to own up to what had happened on that day and quite frankly I was fully prepared to forgive the process and to support him in his first nomination. But to this day I don't feel an adequate explanation was given and that the Chairman of a committee still refuses to own up to what was done.

And yet, the explanations that I heard during the Judicial Proceedings was that it was a constituent that had wanted the Bill raised. People bring Bills to this legislature all the time and ask us to raise them. And I know all of us go through a process of to what degree we're willing to do that. Is it appropriate? Is it prudent? I questioned the judgement that Justice McDonald exercised that time as a Senator in agreeing to raise a Bill that is so egregious to me. But then even after doing that and in the questioning in the hearing he intimated that the underlying statutes don't really belong in Connecticut law.

And he questioned why they're even there. And that concerns me to be doubling down on that issue. Because the reality is those statutes are needed in order for religion to exist in Connecticut specifically the Catholic Church under its construct. That's why those statutes are there.

And I have felt through the whole process the animosity that was seen and the attack that was done on a particular religion in the State of Connecticut was unbecoming of a Chairman of the Judiciary Committee.

And when given the opportunity to take ownership of what had happened, to apologize and move on all I heard was deflection. And it was interesting because if you Google some of the information, the individual constituent that supposedly had proposed the Bill to this day had insisted that was not the language that he was looking for. And yet, the pressure was sort of put on to him and he was left scurrying, apologizing to the Bishops and trying to retract what had happened.

But ultimately the buck should stop at leadership. And so, the fact that Senator or at the time Senator McDonald, Justice McDonald has in my mind throughout this Judicial Process not taken ownership and responsibility. That behavior concerns me especially now that we're seeking to potentially elevate him to Chief Justice.

And so, while I sat silently and pushed my red button five years ago, I can't sit silently anymore, I need to put that on the Record and I will be voting no. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Candelora. Would you remark further? Moving slowly, the fine Representative from the 72nd District, my friend, Representative Butler, you have the floor, sir.

REP. BUTLER (72ND):

Thank you, Mr. Speaker. It's with great reluctance that I even want to engage in this decision here today. As the Speaker has pointed out

earlier this is part two, part one of this initiative was to vote to allow it in the first place. I could tell you the only reason I voted to have it in the first place is that I believe that more than just the members of the Judiciary Committee should be allowed to weigh in on this vote.

This is a very painful debate for me to engage in because I've lost a family member to murder and the central argument that I have against the appointment of Justice McDonald has to deal with the death penalty. And the repeal of those people who are on death row.

I do want to point out, however, that then Senator McDonald while he was in his General Assembly did some very good work on the Judiciary Committee around juvenile justice and other matters, especially matters that actually were related to justice in the minority community. So, this position of mine has nothing to do with, you know, outright trying to discredit the good work that he

has done or could do as a member of the Supreme Court.

I could tell you I was a member of this General Assembly back when Bill 1098 was being considered and for members that were in this Chamber then, the amount of emails that we got regarding that from people all around the State is probably -- remains as probably one of the top three highest volume responses that I've seen since I've been here in 11 plus years.

And I too was concerned because while the central thing was about the Catholic Church and their ability to do business and kind of looking into the way they did business that I also know that if you just think about whatever could have come forward in that initiative it could directly relate other denominations. I happen to be a Baptist, a proud Baptist. I'm not a holy roller, but I certainly believe in God and my Lord and Savior Jesus Christ. And the last thing I would want to do is to actually do anything here to set a precedence

that would then be turned at the Baptist Church that may do housing development, in many cases probably charter schools and somehow look at taking whatever decision that came out of 1098 and point it towards those good Baptist folks. It could be Methodist, could be something directed at a Synagogue or a Mosque, but certainly didn't want to do anything that would set a precedence in that manner.

And I'm so glad that that kind of went away, but it still lingers in my mind as a part of this decision. But getting back to the central thing here and I'd like to add a lot of what I would say today with the arguments that Representative Rose Rebimbas, the Ranking Member, has said probably about 80 percent of that is what I feel and I'm going to add my other 20 percent that has to do with the families.

The families in the systems in the State of Connecticut that expect Justice when they enter the Courts, or the matter is before any court here that the citizens in this State expect some level of

fairness and justice. I could say that back when this death penalty was being debated here, the repeal of the death penalty I actually spoke on the floor for about 45/50 minutes pouring my heart out and that debate, that debate and what happened in this Chamber you could feel, you could feel in the air the sentiments that people were feeling. I know that that was a real, real hard decision for a lot of people.

A lot of people were, you know, going into debate, they weren't quite clear where did they fall and they were waiting to see the outcome of the debate, which is why I really take exception to where we are today and Justice McDonald being considered for this position. Because the advocates at that time, the advocates were talking about we should pass this repeal of the death penalty and feel free to be comfortable with your decision to do so because there's going to be a perspective.

And that the people that are currently on death row see their just due. And that was the theme in

this Chamber in the Senate and with Justice McDonald drafting the first language that in the previous session was considered in the mirror image I believe it was considered in that debate.

So, he working with the Executive Branch and at the time our Governor said please be reassured that those people on death row will remain there. I find it hard to separate Justice McDonald's role as the Chief Counsel to the Governor and the Governor's comments, I can't separate those two.

So, to me he's part and parcel to what the Governor was assuring us of and arguments that were made here in this Chamber, because those arguments went on for a long time. So, that is important because I believe, I believe of the proponents of repealing the death penalty if they said, if their argument was everyone including those on death row now should have the sentence of life in prison, if that came to this floor that Bill would never have passed in my opinion.

If just somebody here that was here for that

debate and feels otherwise, okay, I'd be willing to have that debate too. But I don't think that would have passed.

So, I think it's disingenuous where we find ourselves at today that Justice McDonald had a chance in the *State versus Santiago* case where it was put in front of the Supreme Court here in this state and he actually voted, he was a part of the four that prevailed in that ruling and in my mind that was just wrong. It was so wrong.

At the very least he should have recused himself being part and parcel to the legislation of the repeal of the death penalty from the Executive Branch assuring people that those people will remain on the death row. From the day in these very Chambers that it assured everybody in these Chambers that they will remain there to the debate in the Senate where the same thing was brought forward. Shame on them. And shame on Justice McDonald for rendering a vote.

I liken it to a bait and switch. They baited

this with this goodwill and the first chance they had they switched it. A number of members talked about that earlier, but I'm going to talk about the families now. The families of those people on death row and for anyone who had to go through the process of our judicial system or the victims' advocates office will come and talk to the families and talk about the cases and talk about what you could expect for justice, how the case is going to play out and ask you for your opinion, what you'd like to see happen.

I could tell you that, and that process plays out over months, over the years, the pain and agony and suffering of families that have to go through that, I just having gone through that, if people and members of this Chamber had to endure that I'm sure that there would be many more no votes coming here today than otherwise would.

I could tell you that when Doctor Petit first came to these Chambers and I heard he was running and when he actually came here I was really

impressed by the fact that he relented from making the death penalty his campaign theme, that he actually seemed to be running on being a fiscal conservative and actually having, you know, concerns about the finances here in the State of Connecticut and when he got here, you know I would see him from time to time and I would be cordial and speak to him, but really I just wanted to stop him and invite him for a cup of coffee to have a conversation.

I really, really wanted to do that and I say this today and I talk about it today because it was really on my heart to do that. That's how I was feeling. But I decided not to because I don't know how I could sit in a room with him and discuss some of these things without just breaking down and crying because I felt so strong about this and about his loss. And for him to have the courage today to actually share his position and comments, wow.

He's one strong individual. But there are many families, there are many families around the State of Connecticut that we're not hearing from, the

families of those 11 people that were on death row and that's my concern. Because the Supreme Court is the highest court in this State and somebody who is going to ascend to lead that ought to be beyond reproach. There should be nothing, he should be spotless in my mind. And certainly, given the situation where they should recuse themselves you would expect that they would have recused themselves.

Having said that, I'm not a member of the Judiciary Committee, but for those who are let me tell you I've seen hours of testimony both in person and on t.v. and one of the things that members ask is about the temperament of a judge, they ask you about your temperament. That's fine. That's good. That's a good question and half of them answer that question.

But I wish they would add a couple of more things to the line of questioning. They should ask them what do you think about being an activist judge? Can you comment on that? I like to hear

judges coming before the Judiciary Committee speak to that going forward, so please, ask that question.

Also, ask them about how do you feel about legislating from the Bench? And I'm part and parcel to the previous mentioned, but really, you should ask them about how they feel about legislating from the Bench, because Justice McDonald's position in rendering his vote on that 4 to 3 decision in my mind is part and parcel to being an activist judge and legislating from the Bench and he should have recused himself. I can't say that enough.

And then in a related matter in terms of judges, a couple of years ago I had a chance to sit in on a forum at UCONN Law School where legal minds and judges were weighing in on how the courts run and there were judges on the panel, one from Massachusetts, a couple from Connecticut, but I'll never forget this and I want to share this with you and for members today and member to come. There was one judge that said that legislative intent was something that she just disregarded. She said that.

Do you know how many times we get up and we debate Bills and if something is spelled out in the Bill we kind of think that okay, we could add to that and we could spell this out in a way that for future consideration that somebody, somebody will say that was the legislative intent you can hear it on the Record, that's what they said. Well there are some judges that say forget that, forget that. So, please know on the Judiciary Committee you need to ask that question too. How do you feel about legislative intent? Because if there are people on the Bench that gives total disregard to that, then what are we doing here?

In closing, I mean this was, to me this is like revisiting a wound that has over years healed, got a nice big scar, but lately and this conversation has come up it's like I've had to talk about this in a couple of different venues, every time was very difficult, it's like I had the wound is reopened and just when that scab is getting, looking like okay, we're going to be okay and have to have it scratched

open again and bleed again just to address this issue, it stings.

I have and when in 2015, when this *State versus Santiago* and that vote was rendered in the Supreme Court, that 4 to 3 decision, I remember my local newspaper doing an editorial on it and it was harsh talking about that decision. And the most painful part about that was that while reading and agreeing with so much of it they kind of looped us all in a big group and talked about the Governor, the Supreme Court and all of the democrats and I was saying to myself you guys don't know, I mean, why are you putting me in this big bucket, not that I don't fit in like 95/97/98 percent of what we do, but are you just going to -- that was all in that category.

I can't tell you how much restraint it took on me not to comment on this in the newspaper just because I didn't want to feel the feelings I'm feeling right now. Because if you reply to that then there's a series of articles over weeks that you have to kind of then try to refrain from

answering them, which could be painful.

But I pulled together all the restraint I can and I did not, I did not reply to that. I stayed out of the fray. But today I'm forced to have to do this now. I'm voting no. If I could vote no one thousand times I would vote no a thousand times. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Butler. Would you remark further? My neighbor from Glastonbury in the 31st District, Representative Srinivasan, you have the floor, sir.

REP. SRINIVASAN (31ST):

Good afternoon, Mr. Speaker. Good to be here today. Mr. Speaker, I've had the opportunity to listen to Justice McDonald's conversations when he appeared before us in the Judiciary Committee in the public hearings in which I serve. I've had the opportunity to have a private conversation with him prior to the public hearing that once again the

opportunity to discuss issues that were of great concern to me.

And I have heard the eloquent speech that was given my Ranking Member Rose Rebinbas and the others that followed her on concerns with the regards to Justice McDonald. And that's what concerns me as well.

The question that I have asked in the public hearing and I continue to ask in my mind before we press the button later today one way or the other is the role of a judge and the role of a legislator, and then those two roles get intertwined when you become what is now referred to though that term really doesn't exist an activist judge, that's the point of concern to me.

When I see that Justice McDonald did not recuse himself when he should have and then wrote an opinion obviously in that particular case that is a concern to me. And Mr. Speaker, I had the opportunity in the public hearing to discuss a medical case in which Justice McDonald was involved

regarding HIPAA violations. Once again, an example where your legislating from the Bench.

So, when I put all of that together and know the rules of the Judiciary Branch and the Legislative Branch, I agree everything in life is not black and white, there are shades of gray. But I find these shades of gray with Justice McDonald a little too much for us to accept him and for that reason, Mr. Speaker, I will not be able to support his nomination today. Thank you.

SPEAKER ARESIMOWICZ (30TH):

Thank you, sir. Would you remark further? From the 45th District, Representative Skulczyck, you have the floor, sir.

REP. SKULCZYCK (45TH):

Thank you, Mr. Speaker. And I'll be very brief. I represent the 45th District. And in 45 years in the history of Connecticut the last execution was Michael Ross. He was 45 years old. He had killed eight victims. At least six of those

families I see every day. I speak to them at the local grocery store, I speak to them at the coffee shop. And much to what Mr. Butler, Representative Butler just talked about as victims, I speak to the victims.

And I know we're here to discuss the appointment of Justice McDonald and I'm sure that he is a good man who means to do good. But as Mr. Butler said, victims are being missed here. There's 11 individuals who are on death row after the execution of Michael Ross. And I think we're forgetting the impact on them. If you want to see the faces of the people who suffered under Michael Ross or other victims come up and have a coffee with me and sit across from them and discuss this. They are very passionate about this issue.

I wasn't going to talk today, but I think the victims in my District was the highest number of serial killings in the State of Connecticut. And the decisions being made by Justice McDonald I fear that other victims will be hurt and not have to

serve justice.

I'm just going to summarize with this; I'm sure Justice McDonald as I said is a good guy, I've never met him, I can't comment on him personally. I've heard nice things about him. We might disagree on a few things. But this is a big, big thing. The people of Connecticut put us here to represent their voices and when we talk about victim's voices especially, think about that as we vote today, please. Think of the victims. And think of the trust that has have been put in us to make the right decisions. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Skulczyck. Will you remark further? Representative Fox of the 148th District, you have the floor, sir.

REP. FOX (148TH):

Good afternoon, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Good afternoon, sir. Please proceed.

REP. FOX (148TH):

Mr. Speaker, I have great admiration for this process and the opinions of those here in the Chamber. One of the things that makes our Chamber so very unique is the different perspectives shared by each member. Perspective of the influence by background, upbringing, profession and the list goes on and on.

Today I speak in support of Justice McDonald with a unique perspective as well. Many of us in this Chamber have served with Justice McDonald in the legislative capacity, many of us have served with him or worked with him in his capacity as Counsel for the Governor's Office.

But I rise today, Mr. Speaker, to speak of my experience with Andrew McDonald as an adversary in the Courtroom. Prior to be naming Justice I had the opportunity to work with Andrew McDonald on several different matters. Difficult issues, complex

issues. All of which Justice McDonald was very well knowledgeable on, studied and in the end remarkably fair.

He appreciated the process, respected the law and understood the needs of all the parties involved. I stand up today, Mr. Speaker, to address Attorney McDonald's temperament in the courtroom, one of which I experienced firsthand and have remarkably high regard for. I support his nomination and I urge my colleagues to do the same. Thank you.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Fox. The fine ranking, not Ranking Member, Vice Chair of the Judiciary Committee, Representative Stafstrom from the 129th District, you have the floor, sir.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of Justice McDonald's nomination. And I also, like many of us on the Judiciary Committee sat

through the 13 hours of questioning that he received. Could hear his temperament. Could hear him answer every question that was posed to him. And listened to him explain time and time again why he did not recuse himself on the *Santiago* decision or on some of the other questions that have come here today.

I'd like to put this debate back into context if we can. I counted, there was over two hours of questioning on *Santiago* and the *Santiago* recusal alone during the Judiciary Committee Public Hearing. We've heard on the Floor today comments such as that there was a perception he may have bias. That he should have recused himself. Maybe he should have. Fair minds may disagree that we have evolving standards of where we are going and that our rules are rock-bottom bare minimum.

However, as Justice McDonald explained time and again during his confirmation hearing, that is not the law. That is not the rule. He must follow the rules and he must follow precedent. And one of

those rules is found in the Judicial Code of
Conduct, Rule 2.7

There may be folks who don't like Rule 2.7, but it exists. And it's the rule that was in place when Justice McDonald had to make that decision that day whether to recuse himself on the *Santiago* decision or not. Rule 2.7 is clear that a Justice must sit, must sit on a case unless there is grounds for recusal annumerated under the remaining rules.

They're required to sit. There's a reason for this. The reason is exactly what is happening here today. The reason is that the dignity of the court as the commentators' comments to the rule should say, the dignity of the court, the judges respect for fulfillment of judicial duties and the proper concern for the burdens that may be imposed on the judges' colleagues require that a judge not use disqualification to avoid cases that present difficulties, controversial or unpopular issues.

I think anyone who knew they were going to sit on *Santiago* knew it was going to be a controversial

decision. It was probably one of the most significant and most controversial cases that has gone through our Supreme Court in quite some time. Perhaps as we sit here today and continue to debate this, Justice McDonald wishes he had been able to recuse himself from that decision. He was not.

We may have the opinion that he should or we would have liked him to or the like, but that is not the rule. He followed the rule. He followed precedent. And you don't have to take my word for it.

The most authoritative comment that we've received is a letter dated March 6th, 2018 from a former Associate Dean of the University of Connecticut School of Law and one of our State's leading experts on legal and judicial ethics, Professor Leslie Levin, Joel Barlow professor of law at the University. In an artful four-page letter that was sent to legislative leaders and all of the leadership of the Judiciary Committee she went line by line through Judicial Code Rule 2.7 and affirmed

that Connecticut Judges have an affirmative obligation to hear cases under the rule. And that based on that rule Justice McDonald should not have disqualified himself from hearing the *Santiago* case.

She refuted the notion that his preexisting views somehow are grounds for recusal. She recognized that every judge comes to the bench with preexisting views on a number of issues, be they on the right, the left or down the middle.

She refuted that by participating as a legislator in the passage of Public Act 9-107, which was the Death Penalty Bill of 2009 that somehow that was a reason for disqualification. It was not. She went through several instances where judges who have served as legislators have ruled on cases. Including the fact that then Associate Justice Borden frequently decided cases interpreting our criminal statutes which he helped to draft.

Justice McDonald during his confirmation hearing cited to this treatise over and again. This is the leading treatise on recusals and

disqualification of judges, which he cited to. And on this point of whether prior service in the Legislative Branch is grounds for recusal it summarizes that most of the courts that have had the occasion to consider the matter, however, have found disqualification to be unwarranted even if the challenged judge while in the Legislative Branch was involved in drafting, sponsoring or promulgating a statute or procedure that later becomes before the Judge for review so long as the validity of that statute or procedure is question of law and for this reason and some others no doubt about the Judge's ability to be impartial the handling of cases arisen.

She recognizing that authority and others including Supreme Court precedent involving Justice Black ruling on the Constitutionality of the Fair Labor Standards Acts and others found that it is not grounds for recusal.

Finally, this issue of what Justice McDonald did or didn't do in 2012 as a member of the

Administration, she found to be immaterial. She concluded that even if he had expressed views and been involved in that legislation, it was not a ground for disqualification.

She analyzed Connecticut Judicial Conduct Rule 2.115(b) which requires disqualification when the judge's prior employment participated personally or substantially in that particular proceeding. Justice McDonald took no part in the *Santiago* proceeding. She concludes that nothing about Justice McDonald's participation in *Santiago* is grounds under our law, under our procedure, under our precedent for having to recuse himself in *Santiago*.

The professor's opinion is backed up in large measure by law tribune articles that have been written including that of Wes Horton, attorney Wes Horton who is probably the most prominent appellate practitioner in the State, he's a registered Republican and was Tom Foley's lawyer several years ago in a case that came up. He cited case and case

again. In the interest of time I will not go through them to show what he concludes is that quote, Justice McDonald is a centrist judge with whom all legislators should be comfortable. The cases that he has authored he says are not always predictable, he would just as often vote, in this he means he would just as often vote with the conservatives as he does with the more progressive members of the Court.

It's worth noting that Justice McDonald while in this Legislature was the chief author and advocate for Connecticut General Statute 1.2z, which requires Justices to look at the plain meaning of a statute before all else. Overturning prior Supreme Court precedent.

On *Santiago* as discussed not only could Andrew McDonald not have recused himself given our precedent, nobody asked him to. We talked about the Chief State's Attorney, we talked about the role he played previously, that was all known. That was all public. At no point did the Chief State's Attorney

or anyone else say Justice McDonald should recuse himself. That suggestion did not come up until well after the case was heard. There was never a motion, there was never any public suggestion prior to the decision being reached.

Another misnomer we've heard today is that Justice McDonald was somehow the swing vote on the *Santiago* case. In fact, there were three other Justices who joined with him. Justice McDonald did not author that opinion. Justice Palmer did. Who this legislature confirmed for another term a year or so ago.

The other two members of the Court who voted with the majority in *Santiago* were Justice Norcott who coauthored the concurring opinion we've heard about today. He passed this Chamber unanimously last year. The final member of the Court was Justice Everleigh, a Jodi Rell Republican appointee who earlier today cleared this Chamber with over 100 votes in the affirmative and only 30 opposed.

Justice McDonald is the fourth member of that.

The other three have been reconfirmed by a large majority and have moved through this Chamber over the last couple of years without this level of scrutiny and without this level of questioning and without looking outside what they should or should not have done on that decision.

A final point I would like to make and that is that it's been suggested here today that a no vote, that not confirming Justice McDonald would not do long term damage to our Bench. I'll submit to you that I disagree. I think that if we continue to zero in on one decision, two decisions, three decisions and we second guess whether under our existing law and our existing precedent whether someone should recuse themselves because we might have liked them to, not because they were legally required, but because we might have liked them to that we are doing long term damage to our Judicial Branch.

That we are putting every Judge in the State of Connecticut in a position of looking over their

shoulder thinking is this the right decision based on the law and the facts before us or is the decision that the legislature would like me to pass so that I can get reappointed for another eight-year term.

I ask you to consider that as you vote this afternoon.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Stafstrom. We will be beginning summarization soon, so if you're inclined to speak please let me know. The Deputy Speaker Pro Tem from Danbury, Representative Godfrey, the floor is yours, sir.

REP. GODFREY (110TH):

Thank you, Mr. Speaker. I'm part of the summary I'm told. And I'm certainly standing in favor of the confirmation of my good friend and I think a brilliant Jurist Andrew McDonald.

And I've kind of sort have been asked to

participate, I usually don't on Judicial Nominations because well let's just say I know a thing or two especially about this place because I've seen a thing or two. I've served here for over 29 years, every one of them as a member of the Judiciary Committee. I think I'm the oldest, the longest continually serving member right now. And I've always been very proud of the Committees long tradition of civility and cooperation in all things, but especially in Judicial Nominations. And I've certainly not been happy with what's been going on on the Federal Level as it seems the Supreme Court of the United States has been turned into a third House of the Legislature, it's very sad to me as a lawyer.

And you know I've listened carefully to my colleagues because I do hold their opinions in high regard. A couple of things though I want to kind of focus on because again, you know, I was there, not everyone can say that for good or ill. There's been a lot of talk about the death penalty, just for my

bonafides I opposed the repeal of the death penalty, I was one of the ones who voted no and at the time I was, I recall very carefully saying the lawyer in me quite understands that you can't say we can't choose who gets the death penalty and who doesn't, which is what the repeal had done.

And I said at the time the Court is going to fix this. And the Court did. And the Court followed the political branches. The Court didn't do away with the death penalty, the legislature did. The Governor signed it. We did it. The Court followed us. So, you know in spite of my objections that was the law and the Court which has long had a tradition of following the legislature in its decisions continued to do so.

And then I've heard about the Catholic controversy, well I want to give you my bonafides there. I'm a Catholic. I went to Catholic Parochial School, I went to a Catholic High School and I went to a Jesuit University. I probably knew more about Canon Law than I did about civil law

until I went to law school. And I was here at that time.

And I recall what was going on. There were two Parishes where huge embezzlements had taken place. One of them was in Greenwich. And my good friend then Representative Dolly Powers came to us and said she's got a group of Catholic constituents who have a problem.

Now Dolly and I worked together a lot, she and I both shared our respective screening committees for our caucuses at the time. So, we were used to getting together once a week or twice a week and making sure that the business of the House moved along. And she was great to work with. I still miss her to this day.

But she had a group of Catholics who found out about the embezzlement and it was over \$1 million dollars of embezzlement. And they went to the church hierarchy and the hierarchy said oh you want information about the embezzlement, gee, we'd love to give that to you but there's a state law that

prohibits it. That's the first time I had heard about this prohibition and we've seen it since. And it's specific to only a few particular religions. And not Representative Butler to Baptist, you can debate that and I think reasonable people can debate whether it is an interference in religious freedom or not. I think that is a debatable question, I think there are arguments on both sides and as a lawyer I could probably argue either side.

But that was the case. And remember the background at the time was there was the huge controversy, the scandal over clerical pedophilia that was going on that there was a lot of concerns by my fellow Catholics about what was going on in the hierarchy. What were they hiding and why? So, it was -- that was kind of the zeitgeist that was going on.

So, Dolly came in, it's Greenwich, these are smart people. They said if the church is telling us that they can't give us the information because it's the state law, let's go and bring this up to the

legislature.

It was a simple of petitioning of the legislature for redress of their grievances. A right enshrined in our Constitutions. And Dolly did a great job representing her constituent and brought it forward.

She and I were also both on Judiciary at the time and that was the place to take a look at it. To this day I still think it's worth taking a look at because I think it is an unconstitutional intervention in particular religions not all of them, but you know, that argument is for another day.

So, I'm hoping now 10 years or so later that we're not saying well, maybe you shouldn't actually listen to the requests of constituents or the requests of our fellow legislators because 10 years later this might be made into another controversy. I hope that doesn't happen because I think that the civility of this place as hard-pressed as it has become needs to be defended.

And I want to talk about checks and balances. The founding fathers of this Country and for that matter the people who wrote the State Constitution have built in checks and balances between the three Branches of Government. So that no one of them becomes a tyrant, becomes a dictator.

And since *Marbury versus Madison* at the beginning of the 19th Century it has been explicit that the job of the Courts is to rule on the Constitutionality of laws. But if the Court becomes a third legislative branch we kind of lose the check and balance, so I think we need to be very, very careful when we receive a plea for another set of grievances from dozens of attorneys from some of Connecticut's oldest and most respected law firms and from law school deans and I just want to read a little paragraph from it because I think it's important to put this on the Record.

This is the ad hoc committee of concerned lawyers, there's just dozens of lawyers and law deans who have signed it. And in part they say

reviewing judicial decisions through two partisan and with political purposes in mind poses risks to the independence of our judiciary and to our system of checks and balances. If judicial confirmations focus less on a judge's qualifications and more on the partisan political implication of a judge's nomination then judicial decisions are likely to become influenced by judge's perception of what is politically controversial at the time.

If that happens respect for the rule of law and public confidence in our Courts will be undermined and respect for the role of the General Assembly will inevitably diminish itself. That's a serious charge. And it's one I have to defend the system of checks and balances.

And let's talk about, they mention judicial qualifications. Well, I'm old enough to remember when judicial nominations were pretty much patronage. And a lot of the judges that were appointed under that system were legislators and no one ever said gee, legislators can't be judges

because they've made up their minds on stuff. It was completely silent.

But we did create the system of judicial selection, it's in our constitution. And it's done on the merit. So, there was a major reform at the time. I wasn't member here, but I was on staff here and I remember the very impassioned debates and the almost universal agreement, but that going to the system was better than the patronage system that had existed up to that time.

So, now someone has to apply to be a judge to the Judicial Selection Commission and I've known people who have gone through this and it's hard, you've got paperwork like reams of paperwork you have to fill out, you get investigated right and left by police and private investigators and the commission itself and you're strongly, strongly vetted. And as a part of that by the way, certainly members of the Judiciary Committee get a notice from Judicial Selection where there is a re-nomination and where there is certainly a Supreme Court

Justice, do you know anything about this nominee that you want to bring to our attention? Including Justice McDonald.

To the best of my knowledge and belief no one from the legislature took that opportunity. Now, after you've gone through Judicial Selection your name, the list goes to the Governor. The Governor chooses from that list and only from that list he or she can't go outside of that list. And the Governor goes through another vetting process that includes financial checks and background checks and criminal checks and then the Governor chooses and nominates.

And the nomination comes over to us. And then the Judiciary Committee does another vetting even before we have a hearing on it. Again, all of this, so no one has gone through less than three vetting's by merit selection in the first case before they even get to the floor of the House or the Senate.

The Commissioners on the merits approved Andrew McDonald. Not once, but twice. Had any of the claims made today regarding his conflicts of

interest or his qualifications were, there seems to be no evidence that they were brought to the Judicial Selection Commission, which made the determinations on the merits and they certainly agreed he was qualified to be a Justice of the Supreme Court and the Chief Justice of the Supreme Court. That's a lot of work. That's a lot of work.

And to ignore all of that at the last moment isn't my idea of a good thing. You know, Mr. Speaker, I have lost sleep a lot in this last year over what's been going on in the World and in my Country and in my State. There's just been too much tyranny, there's been too much tin pot dictators around the world, there's been the rise of fascism drives me crazy. I'm not going to be around another 70 years to be able to fight this, other people, younger people are going to have to do this in my stead, but like Thomas Jefferson, I have sworn upon the alter of God enteral hostility against every form of tyranny over the mind of man.

I've seen racism crawl out from under the rocks

under which it had hidden for a long time, I've seen, you know, these tin pot dictators trying to expand their power, I have seen partisan courts on party line votes interfere in elections, state the corporations are people, money is speech, to me it's extremely sad, I'm sad that we have come to that.

I'm certainly never going to vote to replace democracy with the fascism, capitalism, with corporate feudalism or destroy the system of checks and balances that have been going on for over 200 years in this Country, this citadel of democracy.

So, I will support the nomination of the eminently qualified, honest, intelligent, fair and impartial Andrew McDonald to be Chief Justice of the Connecticut Supreme Court. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you, Representative Godfrey. Would you remark further? Deputy Speaker from the 140th District, Representative Morris, you have the floor, sir.

REP. MORRIS (140TH):

Thank you, Mr. Speaker. Thanks to all my colleagues for all the discussion that's going so far, forward today on this nomination. The nomination of a former colleague who as Senate Chair of the Judiciary Committee I have the greatest respect for. And I've said this publicly in many venues, someone who is phenomenally bright.

However, I stand today to make clear that when I voted in Judiciary to get this out of committee, I voted to get this out of committee because I felt that the discussion that we're having right now was so important. This is more important than something that only 40 members of the Legislature should make a decision upon.

This is not being about this one candidate, but this position is important enough that the Senate and the House should weigh in on. Particularly, when you listen to the arguments that have been presented. We are known as the Constitution State. And you've heard a number of issues that were raised

that questioned whether Justice McDonald has honored our Constitution on some fronts. Well, there's a particular constitutional liberty and protection that I want to talk about. And that's a protection that is found in our Connecticut State Constitution, it is Article Section 3, it is also founded in the Constitution of the United States of America, but it's our one about religious liberty. And it says very briefly in our Constitution that the exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in the State; provided, that the right hereby declared and established, shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the State.

That's just one Article and Section of the Constitution, but each of us when we came to this legislature we raised our right hand and we took an oath. An oath to uphold the Constitution. If I could remind each of us what that oath was, it's

very short. You do solemnly swear or affirm as the case may be that you will support the Constitution of the United States and the Constitution of the State of Connecticut as long as you continue a citizen thereof and that you'll faithfully discharge according to law the duties of the office of whatever it would be to the best of your ability so help you God.

We've heard discussion about Senate Bill 1098. And that's where my focus and concerns originally originated. And when Justice McDonald was confirmed, I believe that was what? 2009. I had the concern then, but Justice McDonald had talked to the Catholic Bishops, he had done a number of things that purported that he had regretted his actions and is something that he would not repeat.

The understood that despite the fact that you have these laws on our books about churches that this still was the wrong action. Although you did hear from many people today, there was still this concern that, and you still do hear the argument

well, those laws should not be on our books. Whether they should or not is not what I'm going to argue here today.

What I'm arguing is we're nine years later, a person who I took a vote for and I said you know what, I know him well enough I'll trust that he's got it and I won't have to worry about religious liberties with him. Quite frankly, he's a person that I wanted to be on a Court to defend my other civil rights, he's the guy I'd want to be there.

Phenomenally bright guy. He'd be the right one I want to be there. But when it comes to religious liberty is he the guy that I'd want there? Now, the question isn't whether he's on the Judiciary or not, he's already there. But now that he's there we're asking to place him in the highest position of the Judiciary.

The Chairman of the Judiciary began his speech today by saying, you know the Chairman of the Judiciary is like equal to the Governor of the State on the Executive Branch. Or the Speaker of the

House in the Legislature, the President Pro Tem, it's that important of a position. So, Representative Morris, why religious liberties? So, let me give you an example of something that happened and then I'm going to give you exactly why I'm challenged here nine years later.

On the day we had this hearing because many of us are colleagues and we love Andrew McDonald, I love the guy, he's a phenomenal guy, I love the guy, he's very personable. This position is a challenge, but one of my colleagues came and said to me, said you know, Representative Morris he's really a great guy, he's a smart guy. I said I agree with you. He's great about handling all these other rights. I said I fully agree with you.

I said but I've got a problem with this one liberty and the response that I received was well, in the totality of things can't you just kind of forget this one? You're not going to get a perfect Chief Justice. Can't you just kind of forget this one, just push it aside.

And my response to that colleague was, but if you had someone who you wanted to be a judge or they were presenting to be a judge and for all of your other rights they were there but let's just say that this one where it was gay rights or it could have been women's rights, whatever, but they're marginal on that. What would you do? And my colleague put their head down and they quickly understood that rights are rights.

As Legislators we don't and should not marginalize any. And I need to let you know that my stomach was churning over this. Really. This has been so difficult because I like the guy so much. I mean we served together. You want to see move forward. So, it's difficult sometimes I know, but my charge when I lifted my hand was at the best interest of the State of Connecticut, to uphold the State of Connecticut's Constitution.

Interestingly enough I was deliberating this so difficult and hard that I called Justice McDonald last night, him and I had a conversation, a very

good conversation. I would characterize it as a very good conversation. He had a good understanding on some of these things and actually when I brought up this one point about what the colleague said, you know, the totality of things maybe you can just kind of forget this one, he quickly said no, that's not right. So, I applaud him, even he recognizes that's wrong.

And I will share with you, my colleagues, because many of you probably are looking and saying, but he's great over here, he's great on this, he's great on that. But if there is something that you have a concern about, if there have been enough flags that have been raised about judicial discretion, about Constitutional issues or matters of law, should any of us be marginalizing those things?

We're told that this is not a matter of zeroing in one decision, let me get my thought together here. That this might be devastating to the Judiciary if we didn't make this confirmation. I've

never seen how one person can make that much of a difference in our distinction, but this is not, yeah, my thought I got here is correct, this is not a matter of zeroing in one decision, but this is really about a jurist, yeah, because that was the point, that's what I'm saying, we should not be doing that. But this really from the point of view I'm bringing, this is about a Jurist who has a clear understanding that they can present about our Constitution.

So, let me give you the specific example of what I did. I came here with an ear to listen and to hear on the day we had our hearing and I did that. I listened to everybody's arguments. At the very end of the hearing I decided I saw something that raised a question and I decided I'm going to ask some questions.

I won't give you all of them. I will give you the most important question that I asked. And I want you to keep this in mind with Senate Bill 1098, which had gone nine years earlier. My question, I'm

summarizing as best I can, because we didn't have the text available was, I asked Justice McDonald, I said this is an opportunity for you to relay any concerns that you might be dismissive or marginalize religious liberty, so therefore religious liberty explain your view of what that entails within the backdrop of the following hypothetical situation. If a challenge to the current State Statutes regarding church corporations came before the Supreme Court and parishioners sought relief before the Court, a similar situation to what was done in 1098, okay?

What might your position be regarding the State's ability to change, the State's ability to change said State Statute, would parishioners have standing despite existing church hierarchy that conforms with the Statute? Or the Courts ability to decide church government. Very simple question. What's the Courts ability? What's the State's ability? What's the Government's ability to determiner church, synagogue, mosque or whatever

government?

My example was very tailored, very clear to hey, guess what? This is what happened in 1098, so it's a matter of nine years later. Do you still say that, you're right, that was a wrong decision that I shouldn't have done that? Do you really get it? Justice McDonald gave a series of responses. Well, one of the responses was respectfully I don't know. In fact, I don't want to take up a lot of our time, but he gave a number of answers that just kind of went all over the place.

He says, you know, Judge's don't prejudge, it's an adversarial system. There might be a clear question whether they would have standing. Now, I'm talking, I'm asking this question of someone who's been for five years on the Supreme Court, he's got a stellar career as a legislator. You've been a lawyer for a long time. But you know something, in my conversation that I had with him last night and I fully agree, it was about a 12/13-hour session, so you know, you give allowance, you say listen,

there's possibility someone is really tired by now.

So, guess what, I gave that allowance at the hearing because he had asked to repeat the question a second time and I did. And I did even though the underlying question was about what is your position on religious liberty? I would think that any Superior Court Judge is going to quickly rattle that off. Any lawyer who is sitting here is going to quickly rattle that off. Even if it was 24 hours, respectfully. But you know what? It's tough under the pressure of everyone, you know, looking at you, that's real.

So, I went to help him out, I honestly did. I sincerely went to help him out. And I read to him a quote from Justice William Brennan about religious liberty. That quote says, religious freedom encompasses the power of religious bodies to decide for themselves free from state interference matters of church government as well as those of faith and doctrine.

So, at this point I felt I'm basically giving

you the answer to make it simple. It's all you got to do is say yeah, I agree. I concur with Justice Brennan. It's that simple at that point. But I did not get that concurrence immediately, it took a little bit.

So, with that being in mind to you, my colleagues, nine years later does Justice Andrew McDonald have a real sensitivity or understanding to what religious liberty is? It's a tough question to have stand here on this floor and have to ask, because I have such great respect for him. I honestly do. But how many of you agree that that was a softball question to ask? How many of you would say yes to another person to be on the Supreme Court as its Chief Justice if let's say that person was really weak on women's rights. How many women here would say, but he's a good person? They're gray here, so I'm going to, I need to do this, they're smart here.

All right, I'm almost done here. But I'm grateful that this is the Peoples House and we all

get a chance to speak. The only thing we have is our voice and our vote. And I'm exercising that voice the best way that I can right now, because the Constitution means nothing, our effort and our work here means nothing if we can't stand up and speak if 150 people were on a different side of an issue.

So, Mr. Speaker, if you would just allow me to make certain that I have covered all the issues that I wanted to, because I think that I've given this -- okay, so quickly again, the reason I did this, I wanted everyone to vote on it. Because another reason I wanted everyone to vote on it, our Nation, our State has changed.

An indifference to religious liberties is really important. I've been given a statistic that 33 percent of millennials are either agnostic or atheists. If that trend continues what will our State or Country be like if these protections are not really honored?

But I want to remind many of us when it comes to critical times in our Country and in our State,

we go to our faith if nothing else. I could remember, Mr. Speaker, we were all here together when we had the tragedy in Newtown. When it happened, it didn't matter whether you were democrat or republican, I understood that all the people in that room understood the power or prayer at that point.

Within this legislature we all understood the power and the importance of prayer. I'm concerned that if we take this vote today, because this is more than a vote about Andrew McDonald in my mind. We are the Constitution State. Very often we set the trend for the rest of the Nation. I think the entire Country could take a look and say those are the questions that were asked? The Justice gave that answer? Did Connecticut Legislature think that it was that minor that they still voted to make this person the head of the third branch of Government.

Mr. Speaker, thank you for this opportunity to speak. My colleagues, I hope that you will vote your conscience. You vote your heart. You'll the

vote the facts. You'll vote according to our Constitution and whether Justice William Brennan is correct because those priests, they did an injustice, but that's why we have criminal laws for. Criminal laws, how many of you want the State of Connecticut to determine the governance of your house of worship. Thank you.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, sir. Representative Rebimbas of the 70th District, you have the floor, Madam.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker. And thank you for the honor of speaking for a second time and I believe many of my colleagues and on the other side of the aisle may be happy to hear that it's actually a summarization.

With that said, I certainly just want to highlight that I believe that this debate, this discussion, these points and factors that have been

raised on both sides of the aisle was done so in a very respectful way. And I think that's also not only a reflection of the good work each and every one of us does on a daily basis here, but certainly the nominee because he deserves that. He deserves our respect that we debate and discuss his nomination to be elevated to the Chief Justice.

I don't want to take too much of the Chambers time countering some of the information that was provided. Certainly, we did that throughout the 13-hour, 12-hour public hearing on the Judiciary Committee.

There's been some references to opinions from very established, well established attorneys and professors and I think they even annumerated what party they belong to. I personally and many of my colleagues are blind to party's affiliations. We're listening to the information.

One of the individuals referenced was an attorney Horton who was also brought up in the Committee and again, during my questioning of

Justice McDonald I asked specifically whether or not he had any discussions with that attorney in order for the attorney to have all of the facts necessary to render a specific opinion as to whether or not a recusal was necessary. Justice McDonald said on that regard that no, he had not spoken to him.

The only way to truly know whether or not to sit on a case or recuse yourself from a case is to know all of the facts of the case. Who the parties are. Who the individuals are. What your personal experiences have been professionally and/or outside of this House.

So, again, not to address each and everything, I do have to say that earlier, most importantly, there are rules for recusals and this is not just one or two or three cases. It's actually several more. We're just simply highlighting the ones that we believe are the most challenging. In some cases, sometimes regarding the *State versus Santiago* the most personal and obvious to many of us that Justice McDonald should have recused himself.

The reference was made earlier to Rule 2.7, responsibility to decide. We all agree and understand when we nominate individuals to the Bench whether as attorney's going onto the Bench, as Legislators going onto the Bench. We expect that they will be fair and impartial. As legislators going onto the Bench we expect that they will have the fair and impartial minds to recuse themselves when necessary.

We want to encourage Legislators to continue onto the Bench. I think there is great knowledge and we see that in the nominee before us. An intelligence and capabilities. But we also have to be mindful that rules are put in place for a reason. So, when Rule 2.7 says responsibility to decide, a judge shall hear and decide matters assigned to the Judge except when disqualification is required by Rule 2.11 or other law.

So, if I just may take another moment and then move forward to Rule 2.11, it says disqualification, (A) A judge shall disqualify himself or herself in

any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances. And there are five circumstances enumerated, but I want to bring everyone's attention to specifically 5(b) where it states, served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding. So, however you cut it with the *State versus Santiago* case, whether you want to say that it wasn't a decision on the Constitutionality of the Legislation passed, it actually was regarding Amendment 8 of the Constitution, unreasonable, I can't even remember it now. Unreasonable and cruel, cruel and unusual. I knew there was a word. Cruel and unusual punishment.

With that said, there is no question that there was participation personally and substantially as a public official and then Counsel to the Governor in that regard.

So, we highlight those only because it has the most devastating consequences, but blatantly, blatantly something that in our humble opinion Justice McDonald should have recused himself.

Also, during the discussion in the public hearing and I quote, Justice McDonald said that in concurring opinions sometimes other information is used to telegraph messages to the Legislature. I mentioned that in the committee hearing and I simply said I didn't think that that was appropriate for decisions to telegraph messages to the Legislature.

We have opportunities to meet with Justices, we have opportunities to meet with the Judicial Branch, you can propose legislation based on opinions with the facts and circumstances of that specific case and the consequences, we will see what we as lawmakers, as policy makers here will then want to propose or change. We cannot continue to have individuals elevated to the most important position the Judicial Branch as Chief Justice that believes that that is okay. That participated in changing

public policy when it came to the death penalty.

It wasn't stricken down and then allow the legislators to correct or propose anything differently. It was changed. The law was changed. Completely. Completely. By the Court. And there were some references well, there's other judges on there, it wasn't just him unilaterally. Those other judges were not legislators. Those other judges were not in 2009 the drafters of the legislation. Those other judges were not in 2012 Counsel to the Governor. Those other judges were not directly in discussions regarding that. It's different.

So, in conclusion, Mr. Speaker, it gives me no satisfaction to stand here before you and our colleagues to say that I can't support Justice McDonald as a nominee as Chief Justice of the Connecticut Supreme Court.

And I think as highlighted by both sides of the aisles, when there are questions and substantial questions such as these, we have to make a tough decision. Thank you, Mr. Speaker.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, Madam. Representative Tong of the 147th District.

REP. TONG (147TH):

Thank you, Mr. Speaker. The Majority Leader asked me to provide summation on behalf of the majority. And so, let me wrap up and I'll try to be brief.

Article 5 of the Constitution, the State Constitution says that we shall appoint judges to the General Assembly upon nomination by the Governor. And we do many, many judges, we go through this process many times a year. I've done hundreds in my time in the General Assembly, but there aren't very many guidelines on how we do this work. And so, we're always faced with this question, how do we as a General Assembly judge judges.

Well, the first thing we do is we have a public hearing after the nomination. I will say that this

was an exceptional public hearing, almost 13 hours, I think the longest before that might have been Chief Justice Rogers who approached 6 hours. So, it was more than double that time. There was some suggestion that Justice McDonald gave answers that maybe some members of the Committee did not expect or would have preferred a different answer or would have expected a different answer.

All I can tell you is that for 13 hours he spoke earnestly, I believe truthfully and under oath. And so, after the public hearing and during the public hearing we consider the nominees qualifications as I mentioned at the start there really is no question about his qualifications to be a Justice, we have answered that question.

We've also raised the question about whether he is qualified to serve as the Chief Justice and to perform the administrative functions as the Chief Executive Officer of the Branch. Again, I don't think there's any serious question about his experience and his administrative experience and his

ability to the administrative job of Chief Justice and the Ranking Member did mention that were very few questions during the public hearing because he addressed those in his opening remarks.

So, what are we talking about here. What is really in dispute? And I appreciate the Ranking Member's opening comments that we're not talking about who he is as a person. That is not a proper basis to assess the qualifications of a nominee, who they are. Whether they're Asian, Latino, Native American, Black, White, straight or gay. Irrelevant. I agree with that.

I also agree with the former Ranking Member, Representative O'Neill that we should not reject the process that we have followed for so long in this Chamber when he was talking about the rejection of the Unfavorable Report, but I will take that spirit to suggest that we should not reject how we have always done things in this Chamber. And how we have done things in this Chamber is that we have voted for nominees nominated by Governor's from political

parties other than our own.

We have never in this Chamber voted against nominees on a purely partisan basis because they come from the other political party, it would be wrong to vote against Justice McDonald because he is by party affiliation, a democrat.

Why is that wrong? Because imagine 10 months from now if there is a Republican Governor and we on this side of the aisle are still in the majority, it would be wrong for us to deny that Governor his prerogative to nominate well qualified people to our Bench. And if we go down that road it ends up in a very ugly place. Paralysis. Perhaps even a Constitutional crisis.

And we cannot vote against nominees because we would have made a different decision. And we don't agree with their decisions in very tough cases, sometimes very ugly cases. What we heard over 13 hours on the Judiciary Committee and I will say what we are hearing in part today is that there are many in this chamber who disagree with the decision of

the majority in *Santiago*.

There are many who disagree with the decision of the majority, a 4/2 majority in *Lapointe*. And they don't like his decision on recusal. And so, what I want to say is that we are not in the position of second guessing judges because that is a naked straight up violation of the separation of powers. Judges have to be able to make tough decisions without influence from the elected branches.

And if we take down that wall and second guess our Justices why have a Supreme Court at all. Let's just make those decisions ourselves. We did that before we enacted a State Constitution in 1818. And imagine if we did *Santiago* or *Sheff versus O'Neill* or *Kerrigan* in the caucus room? What kind of justice would that produce?

This is a turning point for this Chamber. Let me conclude by saying this is a turning point for all of us. We must honor the separation of powers. If we don't we compromise the independence

of the Judiciary and we do great damage to the Administration of Justice. I urge adoption of the Resolution.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, sir. Staff and guests please come to the Well of the House. Members take your seats. The machine will be open. [Bell ringing]

CLERK:

The House of Representatives is voting by Roll. Members to the Chamber. The House of Representatives is voting by Roll. Members to the Chamber.

SPEAKER ARESIMOWICZ (30TH):

Have all the members voted? If all the members have voted, the machine will be locked. The Clerk will take a Tally. The Clerk will announce that Tally.

CLERK:

House Joint Resolution No. 25.

Total number of voting	149
Necessary for Adoption	75
Those voting Yea	75
Those voting Nay	74
Absent not voting	2

SPEAKER ARESIMOWICZ (30TH):

The Resolution is Adopted. The Chamber will stand at ease. The Chamber will come back to order. Representative Betts, for what purpose do you rise, sir?

REP. BETTS (78TH):

Thank you, Mr. Speaker. For the Record, I just wanted to let everybody know that Representative O'Dea did not vote on this nomination due to a conflict of interest.

SPEAKER ARESIMOWICZ (30TH):

Thank you very much, sir. The Journal will so

note. Chamber will stand at ease. (Gavel)

DEPUTY SPEAKER ORANGE (48TH):

Are there any announcements or introductions?
Any announcements or introductions? Representative
Albis.

REP. ALBIS (99TH):

Thank you, Madam Speaker. Good afternoon.

DEPUTY SPEAKER ORANGE (48TH):

Good afternoon, sir.

REP. ALBIS (99TH):

Madam Speaker, I just wanted to rise to
recognize the fact that it is the birthday of one of
the members in our Chamber today, so I'd ask the
entire Chamber to wish Representative Chris Perone a
happy birthday. [Applause]

DEPUTY SPEAKER ORANGE (48TH):

Happy Birthday Chris Perone. Are there any
other announcement? Representative Abercrombie?

REP. ABERCROMBIE (83RD):

Thank you, Madam Speaker. For the purpose of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. ABERCROMBIE (83RD):

Thank you, Madam Speaker. I just wanted to announce that the Human Services Committee for tomorrow, Tuesday has been canceled. All Bills that we were going to hear tomorrow in the public hearing, we will hear next Tuesday. Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. And now we will return to the Call of the Calendar. Representative Porter, do you have an announcement, Madam?

REP. PORTER (94TH):

Yes, I do. Thank you, Madam Speaker. For the

purpose of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. PORTER (94TH):

I'd like to make an announcement that the Labor and Public Employees Committee public hearing that is scheduled for tomorrow has been canceled. It has been rescheduled for Thursday at 3:00 p.m. Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Are there further announcements? Representative Linehan?

REP. LINEHAN (103RD):

Thank you, Madam Speaker. I rise for the purpose of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed, Madam.

REP. LINEHAN (103RD):

Thank you. I would like to make announcement that we have the Second Annual Student to Manufacturers Connection Fair happening on Monday, April 23rd here at the Capitol from 9:00 a.m. to 1:00 p.m., and all legislators will find some information in their email inboxes today where you can invite manufacturers from your District as well as students in Tech Schools and in regular high schools who take STEM or manufacturing programs to come and meet with manufacturers who not only have open jobs now, but will have thousands of open jobs in the future.

And we are connecting those students with those manufacturers, many of which are looking to start apprenticeships now while the students are still in high school and even pay for their college moving forward. So, if everyone could look in their inboxes this afternoon for the Student to Manufacturer's Connection Fair and we'll be happy to have any manufacturer or school from your District. So, thank you very much Madam Chair.

DEPUTY SPEAKER ORANGE (48TH):

Thank you. Representative, the distinguished Representative from the 139th District, Representative Kevin Ryan.

REP. RYAN (139TH):

Thank you, Madam Speaker. So, for purposes of an announcement. An introduction, excuse me.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed, sir.

REP. RYAN (139TH):

We are honored today to have visiting with us the Executive Director of the Counsel of State Governments for the Eastern Region, Wendell Hannaford with us. He's been meeting with different folks throughout the Chamber and has been talking about the future programs at the CSU will be offering in the upcoming future. And I wish my colleagues would join with me in welcoming him here today. Thank you. [Applause]

DEPUTY SPEAKER ORANGE (48TH):

Welcome to our Chamber, sir. Are there any further announcements or introductions? Representative Lesser, you have the floor, sir.

REP. LESSER (100TH):

Thank you, Madam Speaker. Madam Speaker for purposes of announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. LESSER (100TH):

Yes, thank you, Madam Speaker. Due to inclement weather the committee meeting for the Banking Committee scheduled for tomorrow has been canceled and the public hearing scheduled tomorrow is being rescheduled for Thursday at 2:30 in Room 1E.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Any further announcements or

introductions? Representative Cook?

REP. COOK (65TH):

Good evening, Madam Speaker. How are you?

DEPUTY SPEAKER ORANGE (48TH):

Is it evening? Good evening.

REP. COOK (65TH):

Okay. Ten minutes. I just have two announcements. One, Wednesday there will be no Primary Care Medical Home Committee meeting due to a conflict in scheduling due to tomorrows inclement conditions. We are being pushed out. And on Thursday is Girl Scout Day here at the Capitol. Girls from across the state will be in Old Judiciary, they will be here the majority of the day, so if people have time please stop by and see them as well as please make yourself available if they come knocking on your door. Thank you very much.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Are there further announcements or introductions? Representative Joe Serra of the 33rd District, you have the floor, sir.

REP. SERRA (33RD):

Thank you, Madam Speaker. Madam Speaker, the Aging Committee meeting scheduled for tomorrow has been canceled and will be reconvening on Thursday at 10:30.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Are there any further announcements or introductions? Representative Roland Lemar of the 96th District, you have the floor, sir.

REP. LEMAR (96TH):

Thank you, Madam Speaker. Madam Speaker, I rise for purposes of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. LEMAR (96TH):

Thank you, Madam Speaker. Madam Speaker, the Planning and Development Committee that was scheduled for tomorrow morning at 10:00 a.m. has been postponed and rescheduled for Friday morning at 10:00 a.m. The public hearing that was scheduled for 11:15, the agenda will be added to the previously posted Friday, March 16th public hearing. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. So noted. Are there any further announcements or introductions? Representative Joseph Verrengia, you have the floor, sir.

REP. VERRENGIA (20TH):

Madam Speaker, I rise for the purpose of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. VERRENGIA (20TH):

Madam Speaker, the Public Safety and Security Public Hearing scheduled for tomorrow has been rescheduled to Thursday at 10:00 a.m.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Are there any further announcements or introductions? Representative Miller of the 145th, you have the floor, Madam.

REP. MILLER (145TH):

Thank you, Madam Speaker. I rise for purposes of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. MILLER (145TH):

The Bonding Subcommittee Agency Hearings for tomorrow are canceled. The rescheduling date is to be determined. Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Are there any further announcements or introductions? Representative De La Cruz, you have the floor, sir.

REP. DE LA CRUZ (41ST):

Thank you, Madam Speaker. This is for the purpose of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. DE LA CRUZ (41ST):

Tomorrows Insurance Committee Meeting will be canceled and moved to Thursday at 11:00 o'clock and also, I will be a grandpa in September and you guys can call me Representative LoLo for now on.

[Laughter and applause]

DEPUTY SPEAKER ORANGE (48TH):

Well, that's awesome.

REP. DE LA CRUZ (41ST):

Isn't it?

DEPUTY SPEAKER ORANGE (48TH):

Are there any further announcements or introductions? Representative Butler.

REP. BUTLER (72ND):

Thank you, Madam Speaker. I rise for purposes of an announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed.

REP. BUTLER (72ND):

Thank you, Madam Speaker. Madam Speaker, the Housing Committee's meeting for tomorrow at 11:00 a.m. is going to be rescheduled. As you heard all of the rescheduling that's in front of my announcement that right now we're trying to find a room because everything is taken. So, just the Members of the Housing Committee stay tuned, we will make that announcement as to where we're going to meet as soon as we find a room. We will meet, I'm trying to -- it's going to be either Wednesday at

10:00 a.m. or Thursday at 1:00 p.m., but we will make that announcement once a room is found. We find a room that somebody actually hopes to make available to us. Thank you very much.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Representative Matthew Ritter of the 1st District, you have the floor, sir.

REP. RITTER (1ST):

Thank you, Madam Speaker. I appreciate the full name call as well. We have a little change due to some illnesses that we're not going to do the remainder of the Judges today. Just so that everybody is aware in the Chamber, we do about four or five Executive Nominations that are all voice votes. We will plan to do those now and then adjourn after that so that people have an idea of what we're doing tonight. Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Are there any further

announcements or introductions? Representative
D'Agostino?

REP. D'AGOSTINO (91ST):

Thank you, Madam Chair. The General Law
Committee Meeting scheduled for tomorrow has been
canceled. We are rescheduling the meeting and
public hearing that was scheduled for tomorrow to
Thursday, the 15th, time and location to be
announced. Right now, it looks like we will start
the meeting at 9:30 and the public hearing to follow
at 10:00 in Room 310 of the Capitol. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. I guess you found a room. Are
there any further announcements or introductions?
We will return to the Call of the Calendar and will
the Clerk please call Calendar No. 17.

CLERK:

Calendar No. 17, SENATE JOINT RESOLUTION No. 4
RESOLUTION CONFIRMING THE NOMINATION OF DONALD

DEFRONZO OF NEW BRITAIN TO BE A MEMBER AND
CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE
CONNECTICUT LOTTERY CORPORATION. Favorable Report
of the Joint Standing Committee on Executive and
Legislative Nominations.

DEPUTY SPEAKER ORANGE (48TH):

Representative DiMassa, you have the floor,
sir.

REP. DIMASSA (116TH):

Thank you, Madam Speaker. I move acceptance of
the Joint Committees Favorable Report and Adoption
of the Resolution.

DEPUTY SPEAKER ORANGE (48TH):

The question before the Chamber is on
acceptance of Committees Favorable Report and
Adoption of the Resolution. Will you remark, sir?

REP. DIMASSA (116TH):

Thank you, Madam Speaker. Mr. DeFronzo is from
New Britain, he is an exemplar candidate and I move
Adoption.

DEPUTY SPEAKER ORANGE (48TH):

Question before the Chamber is on Adoption.
Will you care to remark further? Representative
Wood?

REP. WOOD (141ST):

Thank you, Madam Speaker. Everybody wants to
go home, so I'll keep it very brief. He's a great
guy, vote for him. With all seriousness, he's
obviously very qualified, very well regarded and
we're lucky to have him serve. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. We're lucky to have you
serve as well. Okay. Let me try your minds. All
those in favor please signify by saying aye?

(All) Aye.

All those opposed nay, the ayes have it. The
Resolution is adopted. (Gavel) Will the Clerk
please call House Calendar No. 20

CLERK:

House Calendar No. 20 HOUSE JOINT RESOLUTION
NO. 17, THE RESOLUTION CONFIRMING THE NOMINATION OF
ROGER CIRELLA OF ANSONIA TO BE A MEMBER OF THE

CONNECTICUT COMMUTER RAIL COUNCIL. Favorable Report
of the Joint Standing Committee on Executive and
Legislative Nominations.

DEPUTY SPEAKER ORANGE (48TH):

Representative DiMassa?

REP. DIMASSA (116TH):

Thank you, Madam Speaker. I move acceptance of
the Joint Committees Favorable Report and Adoption
of the Resolution, Ma'am.

DEPUTY SPEAKER ORANGE (48TH):

The question before the Chamber is on
acceptance of the Committees Favorable Report and
Adoption of the Resolution. Will you care to
remark?

REP. DIMASSA (116TH):

Thank you, Madam Speaker. Mr. Cirella is from
Ansonia and I will echo the Ranking Members words,
he's a great guy, vote for him. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Representative Wood, would you
care to remark?

REP. WOOD (141ST):

Yes, and I would just like to add one other comment on that. Thank you, Madam Speaker. He does live up the line, he commutes down from Waterbury down to Norwalk and it was very interesting to hear the perspective of what they go through to commute down to Norwalk and it was another great person to serve. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Will you care to remark further on the Resolution before us? If not, let me try your minds. All those in favor please signify by saying aye?

(All) Aye.

All those opposed, nay? The ayes have it. The Resolution is Adopted. Will the Clerk please call House Calendar No. 25?

CLERK:

House Calendar No. 25, HOUSE JOINT RESOLUTION
No. 22, RESOLUTION CONFIRMING THE NOMINATION OF LISA
SLINSKY OF WATERBURY TO BE A MEMBER OF THE

CONNECTICUT COMMUTER RAIL COUNCIL. Favorable Report
of the Joint Standing Committee on Executive and
Legislative Nominations.

DEPUTY SPEAKER ORANGE (48TH):

Representative DiMassa, you have the floor,
sir.

REP. DIMASSA (116TH):

Thank you, Madam Speaker. I again, move
acceptance of the Joint Committees Favorable Report
and Adoption of the Resolution.

DEPUTY SPEAKER ORANGE (48TH):

The question before the Chamber is on
acceptance of the Committees Favorable Report and
Adoption of the Resolution. Will you care to
remark, sir?

REP. DIMASSA (116TH):

Thank you, Madam Speaker. With over 30 years
of volunteer experience I think the candidate speaks
for itself, I move adoption. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Question before the Chamber is on Adoption,
Representative Wood?

REP. WOOD (141ST):

Thank you. She's one of these other intrepid
souls who also commutes down from Waterbury to
Norwalk and again, serving in the best of ways and
thank her for her service and hope you support it.
Thanks.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Will you care to remark
further on the Nomination before us? If not, let me
try your minds. All those in favor please signify
by saying aye?

(All) Aye.

All those oppose, nay? The ayes have it. The
Resolution is Adopted. Will the Clerk please call
House Calendar No. 29?

CLERK:

House Calendar No. 29, HOUSE JOINT RESOLUTION
NO. 26, RESOLUTION CONFIRMING THE NOMINATION OF

DAVID POHORYLO OF MILFORD TO BE REAPPOINTED A MEMBER OF THE BOARD OF DIRECTORS OF THE CONNECTICUT PORT AUTHORITY. Favorable Report of the Joint Standing Committee on Executive and Legislative Nominations.
DEPUTY SPEAKER ORANGE (48TH):

Representative DiMassa.

REP. DIMASSA (116TH):

Thank you, Madam Speaker. I again, move acceptance of the Joint Committee's Favorable Report and Adoption of the Resolution ma'am.

DEPUTY SPEAKER ORANGE (48TH):

The question before the Chamber is on acceptance of the Committees Favorable Report and Adoption of the Resolution. Will you care to remark, sir?

REP. DIMASSA (116TH):

Absolutely. Mr. Pohorylo is a well-qualified candidate and I'm looking forward to him sailing through reappointment. Thank you. I move adoption.

DEPUTY SPEAKER ORANGE (48TH):

Question before the Chamber is on Adoption,
Representative Wood?

REP. WOOD (141ST):

Thank you. Mr. Pohorylo is a terrific
candidate, vote to support him. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Will you care to remark
further on the Resolution before us? If not, let me
try your minds. All those in favor please signify
by saying aye?

(All) Aye.

All those opposed, nay? The ayes have it. The
Resolution is Adopted. Will the Clerk please call
House Calendar No. 30?

CLERK:

Calendar No. 30 HOUSE JOINT RESOLUTION NO. 27,
RESOLUTION CONFIRMING THE NOMINATION OF BONNIE
REEMSNYDER OF OLD LYME TO BE A MEMBER OF THE BOARD
OF DIRECTORS OF THE CONNECTICUT PORT AUTHORITY.
Favorable Report of the Joint Standing Committee on
Executive and Legislative Nominations.

DEPUTY SPEAKER ORANGE (48TH):

Representative DiMassa, you have the floor,
sir.

REP. DIMASSA (116TH):

Thank you, Madam Speaker. I move acceptance of
the Joint Committees Favorable Report and Adoption
of the Resolution Ma'am.

DEPUTY SPEAKER ORANGE (48TH):

The question before the Chamber is on
acceptance of the Committees Favorable Report and
Adoption of the Resolution. Will you remark
further?

REP. DIMASSA (116TH):

Absolutely. Thank you, Madam Speaker. I
believe the good Bonnie Reemsnyder has found her
call at the Port of Authority, I move adoption.

DEPUTY SPEAKER ORANGE (48TH):

Question before the Chamber is on Adoption,
will you care to remark, Representative Wood?

REP. WOOD (141ST):

Thank you, Madam Speaker. Another great candidate bringing a lot of fresh fish into this Port Authority and something that's much needed in our State, I stand in very strong support, I urge the Chamber to do the same. Thank you.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Will you care to remark further on the Resolution before us? Representative Carney of the 23rd, you have the floor, sir.

REP. CARNEY (23RD):

Thank you very much, Madam Speaker. I just rise in support of the nomination of Bonnie Reemsnyder of the great town of Old Lyme to continue serving as a member of the Board of Directors of the Port Authority. She also serves as First Selectwoman of Old Lyme. She has been a really good voice for small towns and small ports. On this Board we are on different sides of the aisle, but we have a wonderful working relationship and I think

she brings that to this Board, so I urge favorable adoption. Thank you very much, Madam Speaker.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Will you care to remark further on the Resolution before us? Will you care to remark? If not, let me try your minds. All those in favor please signify by saying aye?

(All) Aye.

All those opposed, nay? The ayes have it. The Amendment is Adopted. I mean the Resolution is Adopted. Representative Albis?

REP. ALBIS (99TH):

Thank you, Madam Speaker. I move that we waive the reading of the House Favorable Reports and Bills be tabled for the Calendar and printing.

DEPUTY SPEAKER ORANGE (48TH):

Mr. Clerk, is there any business on your desk?

CLERK:

Yes, Madam Speaker. Favorable Reports, House Bills to be tabled for the Calendar and printing.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Mr. Clerk. Now, Representative
Albis. Hello?

REP. ALBIS (99TH):

Thank you, Madam Speaker. Yet again, I move
that we waive reading of the House Favorable Reports
and the Bills be tabled for the Calendar and
printing.

DEPUTY SPEAKER ORANGE (48TH):

Without objection so ordered. (Gavel) Are
there any other announcements or introductions? Any
other announcements or introductions? My good
friend John Piscopo from the West.

REP. PISCOPO (76TH):

Thank you, Madam Speaker, my good friend. For
a Journal notation please.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed, sir.

REP. PISCOPO (76TH):

Thank you, Madam Speaker. On Friday the 9th, Representative Skulczyck missed votes, he was attending funeral services in his District and today Representative D'Amelio and Srinivasan for a transcript notation missed votes out of the Chamber on Legislative business. Thank you, my friend Madam Speaker.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, sir. Representative Juleson-Scopino, you have the floor, Madam.

REP. JULESON-SCOPINO (12TH):

Thank you, Madam Speaker. For purposes of a Journal notation.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed, Madam.

REP. JULESON-SCOPINO (12TH):

Thank you. Representative Slap missed votes today for business outside of the Chamber.

DEPUTY SPEAKER ORANGE (48TH):

Thank you, Madam. Representative McGee? Where is he?

REP. MCGEE (5TH):

I'm here, Madam Speaker. Good evening. I stand for purpose of an acknowledgement or announcement.

DEPUTY SPEAKER ORANGE (48TH):

Please proceed, sir.

REP. MCGEE (5TH):

So, tomorrow my beautiful Chair will celebrate his 52nd birthday, Jason Rojas, so if we can just wish him a pre-happy birthday and hope that he enjoys his snowy day tomorrow. Please join me in wishing a happy birthday. [Applause]

DEPUTY SPEAKER ORANGE (48TH):

Happy Birthday Representative. Are there any further announcements or introductions? Further announcements or introductions? If not, Representative Albis?

REP. ALBIS (99TH):

Thank you, Madam Speaker. There being no further business on the Clerk's desk, I move that we adjourn subject to the Call of the Chair.

DEPUTY SPEAKER ORANGE (48TH):

The motion is to adjourn subject to the Call of the Chair. Is there objection? Hearing none, the House is adjourned subject to the Call of the Chair.

(Gavel)

(On motion of Representative Albis of the 99th District, the House adjourned at 5:07 o'clock p.m., sine die.)

CERTIFICATE

I hereby certify that the foregoing 212 pages is a complete and accurate transcription of a digital sound recording of the House Proceedings on Monday, March 12th, 2018.

I further certify that the digital sound recording was transcribed by the word processing department employees of Alphatranscription, under my direction.

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