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Massachusetts Senate Journal, 07/15/2010

Massachusetts Senate Journal, July 15, 2010

Thursday, July 15, 2010
Massachusetts Senate
2010 Regular Session

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.

JOURNAL OF THE SENATE.

Thursday, July 15, 2010.

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair).

The Senator from Essex and Middlesex, Mr. Tarr, then led the Chair (Mr. Rosenberg), members, guests and employees in the recitation of the pledge of allegiance.

Distinguished Guests.

There being no objection, the President handed the gavel to Ms. Creem for the purpose of an introduction. Ms. Creem then introduced, in the rear of the Chamber, Sarah Marwil Lamstein, puppeteer and author of numerous children's books including *Big Night for Salamanders*, *I Like Your Buttons*, *Annie's Shabbat* and *Letter on the Wind: A Chanukah Tale*. She was also recognized as being the winner of a Sydney Taylor Honor Book Award. Sarah was accompanied by Elissa Fenster, Sharon Polk Sadownik and Beth Goldbaum. The Senate welcomed them with applause and they withdrew from the Chamber.

Petition.

Mr. Morrissey presented a petition (subject to Joint Rule 12) of Michael W. Morrissey for legislation to reinforce the immigration consequences of criminal convictions;

Referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Ms. Fargo, for the committee on Public Health, on Senate, Nos. 54, 56, 798, 799,801, 802, 803, 805, 806, 809, 817, 819, 823, 824, 825, 826, 827, 829, 830,832, 836, 838, 839, 840, 841, 842, 843, 845, 848, 850, 851, 852,854, 857, 862, 863, 868, 869, 870, 871, 874, 877, 880, 882, 884, 885, 887, 888, 892, 893, 894, 895, 896, 898, 899, 900, 901, 902, 904, 905, 906 and 908, an Order relative to authorizing the joint committee on Public Health to make an investigation and study of certain current Senate documents relative to public health (Senate, No. 2544);

Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. Morrissey, for the committee on Telecommunications, Utilities and Energy, on petition, a Bill relative to utility service call centers (Senate, No. 1516); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1482), a Bill relative to the failure to remove existing poles (Senate, No. 2546);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. O'Leary, for the committee on Education, on petition, a Bill validating certain proceedings of the Pathfinder Regional Vocational Technical High School District (Senate, No. 2536); and

By Mr. Morrissey, for the committee on Telecommunications, Utilities and Energy, on petition (accompanied by bill, Senate, No. 1480), a Bill to improve recycling rates in the Commonwealth (Senate, No. 2547);

Severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

PAPERS FROM THE HOUSE

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4882) of Carolyn Dykema and Karen E. Spilka (by vote of the town) that the public works department in the town of Hopkinton be abolished;

Petition (accompanied by bill, House, No. 4885) of Jennifer E. Benson and James B. Eldridge (by vote of the town) for legislation authorizing the town of Shirley to lease a certain parcel of land for agricultural purposes;

Severally to the committee on Municipalities and Regional Government.

Bills

Authorizing the relocation and replacement of a water line under the Saugus River (House, No. 4432, amended,-- on petition); and

Establishing a sick leave bank for John K. Ryan, an employee of the Office of the Inspector General (House, No. 4866,-- on petition);

Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

Bills

Relative to check cashing fees (House, No. 296,-- on petition);

Relative to affiliate transfers (House, No. 959,-- on petition);

Relative to discharge of certain mortgages (House, No. 996,-- on petition);

Declaring Chapter 397 of the Acts of 2008 "Darnell's Law" (House, No. 1139,-- on petition);

Relative to public access to private restrooms (House, No. 2074,-- on Senate, No 879 and House, No. 2074);

Relative to the Citizen Advisory Board on uses of the Rumney Marsh area (House, No. 4431,-- on petition); and

Relative to the Massachusetts Credit Union Share Insurance Corporation (House, No. 4483,-- on petition);

Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules

Bills

Regulating elections in the town of Yarmouth (House, No. 4243,-- on petition) [Local approval received];

Exempting all positions in the police department of the town of Provincetown from the civil service law (House, No. 4656,-- on petition) [Local approval received];

Providing for the leasing and construction of improvements to the north branch library and east branch library buildings in the town of Watertown (House, No. 4667,-- on petition) [Local approval received];

Relative to the composition of the licensing board for the city of Pittsfield (House, No. 4682,-- on petition) [Local approval received];

Directing the State Secretary to place the office of selectmen on the state election ballot in the town of Mendon (House, No. 4849,-- on petition) [[Local approval received]; and

Establishing the Lincoln Park improvement district in the town of Dartmouth (House, No. 4883,-- on House, No. 611) [Local approval received on House, No. 611];

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

A Bill providing the terms of certain bonds and notes to be issued by the Commonwealth (printed in House, No. 4869,-- being a message from His Excellency the Governor),-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Recess.

At four minutes past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess; and at twenty-six minutes before three o'clock P.M., the Senate reassembled, Mr. Brewer in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill providing the terms of certain bonds and notes to be issued by the Commonwealth (see House Bill, printed in House, No. 4869), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 5 to 0.**

The bill was signed by the Acting President (Mr. Brewer) and sent to the House for enactment.

Communication.

The President in the Chair, the Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASACHUSETTTS SENATE

STATE HOUSE, BOSTON 02133-1053
July 14, 2010

Mr. William Welch, Clerk

Massachusetts State Senate

State House

Boston, MA 02133

Dear Mr. Clerk,

I was unable to attend the formal session of the Senate on July 13, 2010 as I was attending the Emerging Political Leadership Conference at the University of Virginia. Had I been present, I would have voted in the affirmative on non concurrence with the House version of the Economic Development Reorganization legislation and appointing a conference committee.

I respectfully request that a copy of this correspondence be printed in the journal during the next session.

Thank you in advance for your assistance in this matter.

Respectfully,

Jennifer L. Flanagan

State Senator

Worcester & Middlesex District

On motion of Ms. Menard, the above communication was ordered printed in the Journal of the Senate.

PAPER FROM THE HOUSE

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill relative to municipal relief (House, No. 4618) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2436) reported a "Bill relative to municipal relief" (House, No. 4877), -- **came from the House, and was read.**

The rules were suspended, on motion of Ms. Menard, and the report was considered forthwith.

Pending the question on accepting the report of the committee of conference, in concurrence, at twenty-two minutes before three o'clock P.M., Mr. Tisei doubted the presence of a quorum; and at twenty minutes before three o'clock P.M., the President declared that a quorum was present and the Senate proceeded to its business.

Ms. Menard in the Chair, after remarks, the question on acceptance of the report of the committee of conference, in concurrence, was determined by a call of the yeas and nays, at twenty-six minutes past three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 32-- nays 6*) [**Yeas and Nays No. 332**]:

INSERT ROLL CALL "332"

The yeas and nays having been completed at a half past three o'clock P.M., the report of the committee of conference was accepted, in concurrence.

Mr. Tisei moved that the acceptance of the report of the committee of conference be reconsidered.

Pending the question on reconsideration, at twenty-two minutes before four o'clock P.M., for the purpose of a Minority Party caucus under the provisions of Senate Rule 13B, Mr. Tisei requested a recess; and at nineteen minutes past four o'clock P.M., the Senate reassembled, the President in the Chair.

Suspension of Senate Rule 38A.

Pending the question on reconsideration of the acceptance of the report of the committee of conference, Mr. Brewer moved that Senate Rule 38A be suspended so that the Senate may meet beyond the hour of 8:00 P.M., and that the motion be made without the requirement of a roll call,-- but objection was made thereto by Mr. Tisei.

The question on suspension of Senate Rule 38A was then determined by a call of the yeas and nays, at nineteen minutes past four o'clock P.M., as follows, to wit (*yeas 33 - nays 5*) [**Yeas and Nays No. 333**]:

INSERT ROLL CALL "333"

The yeas and nays having been completed at twenty-five minutes past four o'clock P.M., Senate Rule 38A was suspended, and the Senate could proceed to its business beyond the hour of eight o'clock P.M.

The pending question on reconsideration of the acceptance of the report of the committee of conference,-- **was again considered.**

After debate, the question on reconsideration was determined by a call of the yeas and nays, at twenty minutes before five o'clock P.M., as follows, to wit (*yeas 5 - nays 33*) [**Yeas and Nays No. 334**]:

INSERT ROLL CALL "334"

The yeas and nays having been completed at seventeen minutes before five o'clock P.M., the motion to reconsider was *rejected*.

Emergency Preambles Adopted.

An engrossed Bill relative to the sale of antique barometers, thermometers and clocks (see Senate, No. 2403), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an

emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 7 to 0.**

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for James E. Munchbach, an employee of the Trial Court (see Senate, No. 2413), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 9 to 0.**

The bill was signed by the President and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (the first three of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Further regulating public charities (see Senate, No. 2117, amended);

Relative to the financing of wind energy facilities in the town of Falmouth (see Senate, No. 2291, amended);

Relative to safety regulations for school athletic programs (see Senate, No. 2469, amended);

Relative to savings bank life insurance (see House, No. 889, changed and amended);

Requiring engine coolant and antifreeze to contain a **bittering** agent so as to render it unpalatable (see House, No. 4285); and

Providing the terms of certain bonds and notes to be issued by the Commonwealth (see House Bill, printed in House, No. 4869).

Order Adopted.

Mr. Richard T. Moore offered the following order,--

Ordered, That a special committee of the Senate be appointed to represent the Senate at the annual meeting of the National Conference of State Legislatures (NCSL) in Louisville, Kentucky from July 25-28, 2010, and that the Senator from Worcester and Norfolk, Mr. Richard Moore, President-Elect of the NCSL, and those Senators that may attend be appointed to said committee, provided however, that no public funds shall be expended to support the travel and accommodations of the committee.

Under the rules, referred to the committee on Ethics and Rules.

Subsequently, Mr. Berry, for the said committee on Ethics and Rules, reported, recommending that the order ought to be adopted.

There being no objection, the rules were suspended, on motion of Mr. Richard T. Moore, and the order was considered forthwith and adopted.

Reports of Committees.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of James B. Eldridge, Cory Atkins, William M. Straus and other members of the General Court for legislation relative to corporate political accountability.;

The rules were suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Election Laws.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of James B. Eldridge, Cory Atkins and William M. Straus for legislation relative to free speech for people;

The rules were suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary.

Severally sent to the House for concurrence.

Petition.

On motion of Mr. Ross, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Ross, (accompanied by bill) of Richard J. Ross, F. Jay Barrows, James E. Timilty, Carolyn Dykema and other members of the General Court for legislation to designate a certain bridge in the town of Mansfield as the Sergeant Douglas Weddleton Memorial Bridge,-- **and the same was referred to the committee on Transportation.**

Matter Taken From the Notice Section of the Calendar.

There being no objection, the following matter was taken from the Notice Section of the Calendar and considered, as follows:

The Senate Bill establishing a linkage exaction program in the city of Gloucester (Senate, No. 100),-- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

Reports of Committees.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill to authorize transfer of supplementary proceedings when the judgment debtor moves to another district (Senate, No. 1639),-- **ought to pass, with an amendment substituting a new draft entitled "An Act authorizing the transfer of supplementary proceedings when the judgment debtor moves" (Senate, No. 2548).**

There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2548) was then ordered to a third reading, read a third time and, after remarks, passed to be engrossed.

Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill to clarify recording requirements at registries of deeds (Senate, No. 2369),-- **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2549).**

There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2549) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land in the town of Agawam (House, No. 4289) (the committee on Bonding, Capital Expenditures and State Assets having recommended that the bill be amended by substituting a new text with the same title, Senate, No. 2384),-- **ought to pass, with an amendment to the proposed Bonding, Capital Expenditures and State Assets new text in section 1, by striking out, in lines 8 and 9, the words "if deemed necessary by the Massachusetts historical commission,".**

There being no objection, the rules were suspended, on motion of Mr. Buoniconti, and the bill was read a second time.

The pending amendment, previously recommended by the committee on Bonding, Capital Expenditures and State Assets, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2384, was then amended, on recommendation of the committee on Ways and Means.

The pending new text (Senate, No. 2384, amended), -- was then considered; and it was adopted.

Mr. Buoniconti moved that the bill be amended by inserting before the enacting clause the following emergency preamble:--

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the conveyance of land in the town of Agawam for veterans housing, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Sharon Baert, an employee of the department of developmental services (Senate, No. 2466),-- **ought to pass, with an amendment By inserting after the second sentence the following sentence:- "Sick leave bank days**

shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.”

There being no objection, the rules were suspended, on motion of Ms. Menard, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2466, amended) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

The House Bill relative to minimum age requirement for obtaining identification cards (House, No. 4512),--
ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time and, after remarks, was ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Mr. Berry, for the committee on Ethics and Rules, reported, that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill establishing uniform wage compliance and recordkeeping (Senate, No. 678).

There being no objection, the rules were suspended, on motion of Mr. Eldridge, and the bill was read a second time, ordered to a third reading and read a third time, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act relative to uniform wage compliance and recordkeeping”.

After remarks, and pending the question on passing the bill to be engrossed, Mr. Tisei moved that the matter be laid on the table; and, under the provisions of Senate Rule 24, the further consideration thereof was laid over until the next session.

Mr. Berry, for the committee on Ethics and Rules, reported, that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill authorizing the warrantless arrest for reckless or negligent vehicular homicide and reckless or negligent operation (Senate, No. 2472).

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Morrissey moved that the bill be amended by adding at the end thereof the following new section:

“SECTION 3. Section 29D of Chapter 278, as appearing in the 2006 Official Edition of the Massachusetts General Laws, shall be amended in the second sentence of the second paragraph after the words, 'not to have received advisement' by inserting the following:- ', unless such records have been destroyed or disposed of pursuant to the usual course, statute or court rule'.”

Mr. Brewer rose to a point of order which, being stated, was that the amendment was beyond the scope of the bill before the body.

The President ruled that the point of order was well-taken; and the amendment was laid aside.

After remarks, and pending the question on ordering the bill to a third reading, at fourteen minutes past five o'clock P.M., Mr. Tisei doubted the presence of a quorum; and, at a quarter past five o'clock P.M., the President declared that a quorum was present and the Senate proceeded with its business.

After further remarks, the bill was then ordered to a third reading and read a third time, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act authorizing the warrantless arrest for reckless or negligent operation that results in serious bodily injury or death".

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at nineteen minutes past five o'clock P. M., on motion of Ms. Creem, as follows, to wit (*yeas 38 - nays 0*) [**Yeas and Nays No. 335**]:

INSERT ROLL CALL "335"

The yeas and nays having been completed at twenty-four minutes past five o'clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

Mr. Berry, for the committee on Ethics and Rules, reported, that the following matter be placed in the Orders of the Day for the next session:

The House Bill relative to state universities (House, No. 4864).

There being no objection, the rules were suspended, on motion of Mr. Berry, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Rosenberg moved that the bill be amended by striking the text and inserting in place thereof the following:-

"SECTION 1: Within 90 days of the passage of this act, the Board of Higher Education shall develop standards and an application process for a state or community college, as defined by chapter 73 of the General Laws, to become a state university. The application shall include, but not be limited to: (1) the ability of the state of community college to meet the standards established by the Board of Higher Education, (2) the type and number of degrees offered by the state or community college, (3) the ability of the state or community college to be a research institute, (4) the ability of the state or community college to maintain the existing mission should university status be conferred, (5) all reasonable anticipated costs associated with the change in status, and (6) the potential impact of such costs on the operation of the institution, the student body, and the faculty. The board of trustees of a state or community college may submit a completed application to the Board of Higher Education. The Board of Higher Education shall review the application and hold a public hearing for each applicant no later than 60 days after receiving an application. The Board shall vote to approve or disapprove of the application."

After debate, the amendment was rejected.

The bill was then ordered to a third reading and read a third time.

After further debate, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at fourteen minutes past six o'clock P.M., as follows, to wit (*yeas 34 - nays 2*) [**Yeas and Nays No. 336**]:

INSERT ROLL CALL "336"

The yeas and nays having been completed at eighteen minutes past six o'clock P.M., the bill was passed to be engrossed, in concurrence.

The following report was laid before the Senate, the time within which the said committee was required to report having expired:---

Of the committee on Environment, Natural Resources and Agriculture, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, Senate, No. 427) of Marc R. Pacheco, David B. Sullivan, Susan C. Tucker and Bruce E. Tarr (accompanied by bill) for legislation relative to the repair, removal and replacement of dams

The rules were suspended, on motion of Mr. Petrucci, and the report was considered forthwith.

Mr. Pacheco moved that the report be amended by substitution of a "Bill relative to dam repair, removal and replacement" (Senate, No. 2545).

The amendment was adopted.

The bill (Senate, No. 2545) was read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPERS FROM THE HOUSE

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4888) of Harold P. Naughton, Jr. for legislation to establish a sick leave bank for David A. Peets, an employee of the Department of Correction; and

Under suspension of Joint Rule 12, to the committee on Public Service.

Petition (accompanied by House, No. 4887) of A. Stephen Tobin for legislation to further regulate the granting of real estate tax abatements for certain veterans;

Under suspension of Joint Rule 12, to the committee on Revenue.

The Senate Bill authorizing the town of Wareham to issue eight (8) additional liquor licenses (Senate, No. 2520),-- **came from the House passed to be engrossed, in concurrence, with an amendment in section 1 by striking out the following** "8 licenses to".

The rules were suspended, on motion of Mr. Pacheco, and the House amendment was considered forthwith and adopted, in concurrence.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Exempting the position of deputy chief of police in the city of Somerville from the provisions of civil service (Senate, No. 2263);

Relative to the position of deputy chief of police in the town of Rockland (Senate, No. 2475);

Establishing a Shellfish Mitigation Receipts Reserved for Appropriation Fund in the town of Dennis (House, No. 4245);

Relative to a transfer of land in the town of Plymouth (House, No. 4264, amended);

Relative to the number of town meeting members among precincts in the town of Shrewsbury (House, No. 4305);

Relative to seawalls in the town of Duxbury (House, No. 4655); and

Authorizing the town of Amesbury to grant additional licenses for the sale of all alcoholic beverages (House, No. 4818);

Were severally read a second time and ordered to a third reading.

There being no objection, the House Bill relative to qualified financial contracts (House, No. 4399),-- **was taken out of order.**

Pending the main question on ordering the bill to a third reading, the pending motion, previously moved by Mr. Montigny, to lay the matter on the table,-- was considered; and it was negatived.

After remarks, pending the question on ordering the bill to a third reading, Mr. Montigny again moved that the matter be laid on the table; and, under the provisions of Senate Rule 24, the further consideration thereof was laid over until the next session.

The House Bill relative to an agreement among the states to elect the President by national popular vote (House, No. 4156),-- **was considered, the main question being on passing the bill to be engrossed.**

The pending motion, previously moved by Mr. Tarr, to lay the matter on the table was considered; and it was negatived.

The pending amendment, previously moved by Mr. Tisei, by striking out all after the enacting clause and inserting in place thereof the following text: -

“SECTION 1. The first paragraph of [section 8 of chapter 53 of the General Laws](#), as appearing in the 2008 Official Edition, is hereby amended by inserting after the fourth sentence the following sentence:- One presidential elector shall be chosen from each congressional district, and 2 presidential electors shall be chosen at large.

SECTION 2. [Section 148 of chapter 54 of the General Laws](#), as so appearing, is hereby amended by adding the following 2 sentences:-

Each at-large presidential elector shall cast his ballot for the presidential and vice-presidential candidates whose

electors received the highest number of votes in the state. Each congressional district presidential elector shall cast his ballot for the presidential and vice-presidential candidates whose electors received the highest number of votes in his congressional district.”-- was temporarily laid aside.

Mr. Tisei moved to amend the bill by adding the following section: -

“SECTION X. The secretary of state shall place a non-binding question on the ballot, at the next statewide general election, asking the voters of the commonwealth to ratify or reject the tenets of this act.”

Ms. Menard in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty minutes past seven o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 17 - nays 21*) [**Yeas and Nays No. 337**]:

INSERT ROLL CALL “337”

The yeas and nays having been completed at twenty-four minutes past seven o'clock P.M., the amendment was *rejected*.

The pending amendment, previously moved by Mr. Tisei, relative to selection by Congressional district, -- **was then considered.**

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eight minutes past eight o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 9 - nays 29*) [**Yeas and Nays No. 338**]:

INSERT ROLL CALL “338”

The yeas and nays having been completed at thirteen minutes past eight o'clock P.M., the amendment was *rejected*.

Mr. Tisei then moved that the Senate stand adjourned; and the question on adjournment was determined by a call of the yeas and nays, at a quarter past eight o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 4 - nays 34*) [**Yeas and Nays No. 339**]:

INSERT ROLL CALL “339”

The yeas and nays having been completed at eighteen minutes past eight o'clock P.M., the motion to adjourn was *rejected*.

The House Bill relative to an agreement among the states to elect the President by national popular vote (House, No. 4156),-- **was again considered, the main question being on passing the bill to be engrossed.**

Mr. Tisei moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the following text: -

“Under article V of the constitution of the United States, the commonwealth hereby calls on the congress of the United States to convene a convention of the many states to propose amendments to the constitution of the United States, and hereby declares that this resolve stand in compliance of the requirements of article V for such purposes.”

Mr. Brewer in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at five minutes before ten o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 4 - nays 34*) [**Yeas and Nays No. 340**]:

INSERT ROLL CALL "340"

The yeas and nays having been completed at one minute past ten o'clock P.M., the amendment was *rejected*.

Mr. Tarr moves to amend the bill by striking out all after the enacting clause and inserting in place thereof the following text:-

"*WHEREAS* , SECTION 1 OF ARTICLE II OF THE CONSTITUTION PROVIDES FOR THE ELECTION OF THE PRESIDENT OF THE UNITED STATES THROUGH THE SELECTION IN EACH STATE OF A SLATE OF ELECTORS, WHO THEN CAST THEIR VOTE FOR A PRESIDENTIAL CANDIDATE; AND,

WHEREAS , ON 4 OCCASIONS IN THE HISTORY OF THE UNITED STATES SINCE THE ADOPTION OF THE CONSTITUTION, THE CANDIDATE FOR PRESIDENT OF THE UNITED STATES RECEIVING MORE VOTES THAN ANY OTHER CANDIDATE HAS NOT BEEN THE CANDIDATE OBTAINING THE MOST ELECTORAL VOTES; AND,

WHEREAS , IT IS CURRENTLY CONTENDED THAT THE DIRECT NATIONAL ELECTION OF A PRESIDENT IS A BETTER FORM OF PRESIDENTIAL SELECTION THAN THE ELECTORAL COLLEGE; AND,

WHEREAS , 5 STATES, THOSE BEING ILLINOIS, MARYLAND, HAWAII, NEW JERSEY AND WASHINGTON, HAVE EXPRESSED THEIR DESIRE TO REPLACE THE ELECTORAL COLLEGE WITH A NATIONAL POPULAR VOTE; AND,

WHEREAS , A CHANGE IN THE MANNER OF ELECTION OF THE PRESIDENT IS A FUNDAMENTAL CHANGE TO THE CONSTITUTION; AND,

WHEREAS , ARTICLE V OF THE CONSTITUTION PROVIDES FOR A PROCESS THROUGH WHICH THE CONSTITUTION MAY BE AMENDED WHEN A QUESTION ARISES AS TO WHETHER ITS PROVISIONS SHOULD BE MODIFIED; NOW, THEREFORE, BE IT

RESOLVED , THAT THE MASSACHUSETTS HOUSE AND SENATE CALL UPON THEIR FEDERAL REPRESENTATIVES IN CONGRESS TO INVESTIGATE WHETHER THE ELECTORAL COLLEGE SHOULD BE ABOLISHED AND REPLACED WITH A NATIONAL POPULAR VOTE THROUGH THE PASSAGE OF AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, AND, IF SO, TO FILE SUCH AN AMENDMENT IN CONGRESS AND ATTEMPT TO SECURE ITS PASSAGE; AND BE IT FURTHER

RESOLVED , THAT A COPY OF THESE RESOLUTIONS BE TRANSMITTED FORTHWITH BY THE CLERKS OF THE HOUSE AND SENATE TO UNITED STATES SENATORS JOHN KERRY AND SCOTT BROWN AND CONGRESSMEN MICHAEL CAPUANO, WILLIAM DELAHUNT, BARNEY FRANK, STEPHEN LYNCH, EDWARD MARKEY, JAMES MCGOVERN, RICHARD NEAL, JOHN OLVER AND NIKI TSONGAS."

After remarks, the amendment was *rejected*.

Mr. Tarr moved to amend the bill by adding the following 2 sections:-

“Section 2. Section 1 of this act is hereby repealed.

Section 3. Section 2 of this act shall take effect 7 years after the effective date of this act; provided, however, that section 2 shall not take effect if, within 7 years of the effective date of this act, states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each such state.”

After remarks, the amendment was *rejected*.

After debate, the question on passing the bill to be engrossed, in concurrence, was determined by a call of the yeas and nays, at twenty-eight minutes before eleven o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 28 - nays 10*) [**Yeas and Nays No. 341**]:

INSERT ROLL CALL “341”

The yeas and nays having been completed at twenty-three minutes before eleven o'clock P.M., the bill was passed to be engrossed, in concurrence.

Report of a Committee.

Mr. Berry, for the committee on Ethics and Rules, reported, that the following matter be placed in the Orders of the Day for the next session:

The House Bill protecting nursing home residents (House, No. 4637).

There being no objection, the rules were suspended, on motion of Ms. Creem, and the bill was read a second time and ordered to a third reading.

After debate, the bill was read a third time.

Pending the question on passing the bill to be engrossed, at the request of Messrs. Tolman and Eldridge, under the provisions of Senate Rule 31, amendments to be offered to the bill were ordered printed in the Calendar for the next session.

Order Adopted.

On motion of Mr. Tolman,

Ordered , That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Adjournment in Memory of Peter B. Gay

The Senator from Plymouth and Bristol, Mr. Pacheco, requested that when the Senate adjourns today, it adjourn in memory of Peter B. Gay of Taunton.

Peter B. Gay, distinguished veteran of the United States Army, former State Representative and native son of

Taunton died at Morton Hospital and Medical Center in Taunton on July 8, 2010 just shy of his 95th birthday.

Peter B. Gay, the second son of Olympio and Ida (Pocassoni) Gay, attended the Taunton Public Schools. Mr. Gay earned his bachelor's degree from the University of Notre Dame and his law degree from Boston University. He was the first man of Italian extraction from Taunton to become a member of the Massachusetts Bar and elected to public office, serving 6 years as a member of the Taunton Municipal Council.

Peter was later elected to the Massachusetts House of Representatives in 1948, representing the Fourth Bristol District for 5 consecutive terms, with one of his proudest moments coming with the renaming of Route 138 from Boston to Fall River as the "Amvets Memorial Highway." Peter also served as a first assistant district attorney for the Southern District of Massachusetts.

In addition to his professional career, Peter enjoyed a very active social life as both a member and officer of the Taunton Giuseppe Garibaldi Lodge 540. His commitment to the Sons of Italy won him accolades from the Italian government and on October 18, 1974, he was a guest of President Ford at a state dinner at the White House honoring Italy's then President Giovanni Leone.

Peter was honored by the city of Taunton in 2002 when the city dedicated the corner of Hart and Linden Streets in the heart of Peter's old neighborhood as "The Peter B. Gay Square".

Peter Gay was a successful man by all accounts, but his most notable accomplishments were those he championed at home. He and his late wife Laura Garda were the proud parents of 7 children: David, a lawyer and formal Naval officer during the Vietnam War; Peter, an electrical engineer for Raytheon who lost his life on American Airlines Flight 11 on 9/11/01; William, a retired employee of the United States Department of Transportation; Thomas, a practicing attorney in Taunton; Francis, the administrator of the Greater Attleboro Taunton Transit Authority; Laurel, a physician's assistant at Rhode Island Hospital; and Robert, the Director of Project Management at General Dynamics in Taunton. In addition to his children and their spouses, Peter Gay is survived by 17 grandchildren and 6 great grandchildren.

Accordingly, as a mark of respect to the memory of Peter B. Gay, at nineteen minutes before eleven o'clock P.M., on motion of Mr. Tolman, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.
MA S. Jour., 07/15/2010

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